

DIGEST OF CASES REPORTED IN THE SOLICITORS' JOURNAL & WEEKLY REPORTER VOLUME 59.

ADMINISTRATION :—

1. *Probable insolvency of estate—Transfer from Chancery Division to Court of Bankruptcy—Motion—Bankruptcy Act, 1914 (4 & 5 Geo. 5, c. 59), s. 130, sub-section 3.*—Letters from the solicitors of an executrix, stating that so many claims in respect of her testator's estate have reached them that they do not know whether there will be sufficient to pay the creditors in full, do not amount to evidence sufficient to satisfy the Court that the estate is insufficient to pay its debts.

Even if such were sufficient evidence, that would not of itself justify the Court in transferring proceedings in administration from the Chancery Division to the Court of Bankruptcy on the ground of "inconvenience, delay or expense" within section 130, sub-section 3, of the Bankruptcy Act, 1914.

Re York (1887, 36 Ch. D. 233) and *Re Kenward* (1906, 94 L. T. R. 277) distinguished.

Quære, whether an order for transfer under section 130, sub-section 3, of the Bankruptcy Act, 1914, can be made after judgment in an administration action.—*RE HAY, Sargant, J.*, 680; 1915, 2 Ch. 198.

2. *Tenant for life and remaindermen—Income of residue till payment of debts, legacies and duties—Lapse of more than one year from testator's death—Adjustment.*—Where there was a trust for sale, and out of the proceeds to pay all debts, legacies, funeral and testamentary expenses, annuities and duties, and divide the residue into ninths and the estate was very large, and five years expired before all the above payments had been made, and there was a power to postpone in the will, and also a clause that all income from testator's death should be treated as income, and no part of it added to capital.

Held, that the rule in *Allhusen v. Whittell* (4 Eq. 295) and *Re McEwen* (58 SOLICITORS' JOURNAL, 82; 1913, 2 Ch. 704) still applied, and also that the tenant for life was not entitled to income on any part of the estate which was used for the discharge of liabilities after the first year.

The auditor had suggested that the funds should be notionally divided into two parts: (1) "the deductible fund" for discharging the liabilities; and (2) the net residue; and that the income from the deductible fund, computed from the date of the death to the various dates of payment, should be added to the net residue of the estate.

Held, that this was not the true principle to be adopted.—*RE WILLS, W. v. HAMILTON, Sargant, J.*, 477; 1915, 1 Ch. 769.

See also Practice.

ALIEN ENEMY :—

1. *Action against—Plaintiffs British subjects—Right of plaintiffs to proceed with action—Right of defendants to appear—Costs.*—There is no rule of common law which suspends an action in which an alien enemy is defendant, or prevents his appearing and conducting his defence.

Quære, whether the defendant, if successful, would be entitled to his costs before the conclusion of the war.—*ROBINSON v. CONTINENTAL INSURANCE CO., K.B.D.*, 7; 1915, 1 K. B. 155.

2. *Bankers—London branch—Licence to continue trading—Assets to remain under control of Treasury—Judgment obtained against bank—Claim to levy execution on branch—Aliens Restriction Act, 1914 (4 & 5 Geo. 5, c. 12).*—The plaintiffs, an English firm, had an account with the defendants, a Berlin bank with a branch in London. Shortly before war was declared the plaintiffs drew a cheque closing their account with the Berlin bank, but the bank refused to pay. Thereupon, war by this time having been declared proceedings were instituted, with the result that judgment was given for the plaintiffs for £427. The branch had obtained a licence to continue trading for limited purposes on the condition (*inter alia*) that any assets of the bank's which might remain undistributed after their liabilities had, so far as possible in the circumstances, been discharged, should be deposited with the Bank of England to the order of the Treasury.

The plaintiffs sought to levy execution on the property of the branch, and claimed also that the assets at the bank were liable to satisfy the judgment.

A summons was taken out by the defendant for an order to set aside all proceedings under the writ of *fi. fa.* *Ridley, J.*, in chambers, dismissed the summons.

Held, allowing the defendants' appeal, that proceedings under the writ must be stayed.—*LEADER v. DIRECTION DER DISCONTO GESELLSCHAFT, C.A.*, 544; 1915, 3 K. B. 154.

3. *German company holding shares in British company—Right to vote at meetings—Right to appoint British proxy—Prohibition of all intercourse with enemy during state of war—Trading with the Enemy Proclamation No. 2, Clause 6.*—During a state of war all intercourse, whether commercial or otherwise, between British citizens and citizens of the hostile state becomes *ipso facto* illegal, except so far as it may be licensed by the Crown.

Where an enemy banking corporation were holders of a block of shares in an English company,

Held, that its right of voting in respect of those shares, and of appointing a proxy for that purpose, was suspended by the war. The fact that the corporation, before the war, had a branch locally situate in England does not enable such a transaction to be licensed under the Trading with the Enemy Proclamation No. 2, Clause 6, and it is therefore absolutely prohibited.

The *Panariellos* (59 SOLICITORS' JOURNAL, 399) approved.—*ROBSON v. PREMIER OIL AND PIPE LINE CO., C.A.*, 475; 1915, 2 Ch. 124.

4. *Limited company—Registration in this country—Shares held by alien enemies—Right of company to sue.*—A limited company registered in this country under the Companies Acts is not disentitled to sue by reason of the fact that some of its shareholders are alien enemies residing in a state which is at war with this country.—*AMORDUCT CO. v. DEFRIES, K.B.D.*, 91.

5. *Limited company carrying on trade—Enemy shareholders—Suspension of business—Public interest that business should be carried on—Petition of Board of Trade—Appointment of a controller—Trading with the Enemy Act, 1914 (4 & 5 Geo. 5, c. 87), s. 3.*—A limited company carrying on trade in this country, of which the great majority of the shares were held by enemies resident in Germany, suspended business after the outbreak of war. The Board of Trade petitioned the Court to appoint a controller of the business of the company during the continuance of the war.

Held, that such an application might be made by an originating motion; that the controller might be appointed on some evidence that the information of the Board of Trade had reasonable foundation; that the controller must give the security required to be given by a receiver; and that the Court should reserve to itself the power to require the controller to render and vouch his own accounts, but should not direct him, as a matter of course, to do so.—*RE MEISTER LUCIUS & BRUNING, Warrington, J.*, 25.

6. *Marine insurance—Insurance company—Branch office in England—Loss—Right of action—Trading with the Enemy Proclamation, 9th September, Clause 6; 8th October, Clause 5.*—The Proclamation of 8th October, 1914, does not prevent a British subject from receiving money from or suing an alien enemy where the right to be paid or to sue has accrued before the defendant has acquired the status of an alien enemy.—*INGLE v. MANNHEIM INSURANCE CO., K.B.D.*, 59; 1915, 1 K. B. 227.

7. *Partnership business—One of the partners an alien enemy—Collecting outstanding moneys—Receiver—Trading with the Enemy Act, 1914. (4 & 5 Geo. 5, c. 87), s. 2.*—The Court will appoint a receiver of a partnership business, of which one of the owners is an alien enemy, if the business is an ordinary commercial enterprise, and not within section 3 of the Trading with the Enemy Act, 1914.—*ROMBACH v. ROMBACH, Eve, J.*, 90.

8. *Partnership deed—Special clause that partner serving in the German army should not cease to be a partner—Deed of accession*

before war declared with England—Effect of war—Licence to trade—Partnership suspended or abrogated—Receiver and manager to continue business—Service of writ on alien partners.—A receiver and manager was appointed, not for the purpose of winding-up, but for the purpose of continuing a partnership business, where there was a clause in the partnership deed making provision for what was to be done in the event of the two German partners in a business consisting of English and German partners being called out to serve in the German army, and where, before the outbreak of war between England and Germany, a deed of accession had been entered into purporting to carry out the terms of the special clause in the partnership deed.—*ARMITAGE v. BORGMANN, Sargant, J.*, 219.

9. Practice—Vesting of enemy's property—Service on alien enemy—Motion—Originating summons—Trading with the Enemy (Amendment) Act, 1914—Trading with the Enemy (Vesting and Application of Property) Rules, 1915, rr. 2 and 6—R.S.C., ord. 54, r. 4s.—Where notice of motion had been served before the rules under the Trading with the Enemy (Amendment) Act, 1914, were promulgated in the London Gazette.

Held, that an originating summons must now be issued, in pursuance of the rules, and the matter must come on first in chambers, leave being given to use the affidavit evidence filed on the motion.

Where an alien enemy is interned in an internment camp a letter should be sent to him enclosing a copy of the originating summons.—*RE A COMPANY, Sargant, J.*, 217.

10. Receiver—Power of attorney to English manager of alien business—Action for declaration of rights under power—Absence of jurisdiction.—An Austrian subject, carrying on business in England, upon the declaration of war between Russia and Austria, gave his manager a power of attorney to carry on the business, and left England for the front. Shortly afterwards, on the declaration of war by Great Britain against Austria, he became an alien enemy. The manager, being for that reason unable to collect debts due to his principal, commenced an action against him for a declaration that, under the power, he was entitled to collect the debts and give receipts for money due, and for the appointment of a receiver of assets, with liberty to pay the debts.

Held, that such action, being one brought by an agent against his principal in respect of a duty owed by the agent to the principal, would not lie, and that there was no jurisdiction to appoint a receiver.—*MAXWELL v. GREENHUT, C.A.*, 104.

11. Registration—Right to sue as plaintiff in action—Status under Aliens Restriction Act, 1914 (4 & 5 Geo. 5, c. 12)—Residence in the United Kingdom—Aliens Restriction (Consolidation) Order, 1914.—Where the plaintiff in an action for libel was an alien enemy resident in this country who had registered under the Aliens Restriction (Consolidation) Order, 1914, an application to stay all proceedings by her in the action was dismissed on the ground that, having a licence to remain, and being in fact commanded by the Order to remain in this country, she had a right to enforce her claim in the courts of this country.

Wells v. Williams (1897, 1 Lord Raymond, 282) followed.—*PRINCESS OF THURN AND TAXIS v. MOFFITT, Sargant, J.*, 26; 1915, 1 Ch. 58.

12. Right to sue—Residence in Britain under protection of Crown—Liability to be sued—Hague Convention IV. of 1907—Practice—Substituted service within jurisdiction of notice of a writ for service out of the jurisdiction—Right of appeal—Respondent's right to have appeal heard—R.S.C., orders 9, r. 2, and 11, r. 7—Aliens Restriction Act, 1914 (4 & 5 Geo. 5, c. 12).—An alien enemy has no right to sue in the King's courts, unless resident here by permission of the Crown, as in the case of those registered here under the Aliens Restriction Act, 1914. An alien enemy is under the same liability of being sued as a British subject, and when sued may appear and avail himself of all means of defence open to the latter.

The test of enemy status is not nationality, but the place of carrying on the business.

An alien enemy defendant may appeal against a judgment given against him, but the right of appeal of an alien enemy plaintiff against whom judgment has been given before the war is suspended by the declaration of war. The respondent to an alien enemy defendant's appeal can insist on the appeal being heard in due course.

The Court may make an order for substituted service upon a person within the jurisdiction of notice of a writ issued for service on a defendant out of the jurisdiction, provided it can be shewn that the method adopted will almost certainly bring the proceedings to the knowledge of the defendant.

The provisions of Article 23 (h) of the annex entitled "Laws and Customs of War on Land" to the Hague Convention IV. of 1907 have not abrogated the rule of English law so as to enable an alien

enemy to sue.—*PORTER v. FREUNDENBERG, C.A.*, 216; 1915, 1 K. B. 857.

13. Sale of goods—British company—Shares held by alien enemies—Goods supplied before war—Liability for payment.—It is not unlawful to make payment to an English company for goods sold and delivered, although the majority of the shares may be held by alien enemies.—*CONTINENTAL TYRE AND RUBBER CO. v. TILLING, K.B.D.*, 106; 1915, 1 K. B. 893.

14. Sale of goods—Sale for delivery to person in Hamburg—Payment in England in exchange for shipping documents—Refusal to pay—Trading with the Enemy Proclamation of 5th August.—When there is a contract for the sale of goods between two firms in England, the goods to be delivered in Germany, and payment to be made in England in exchange for shipping documents, the buyers are entitled by virtue of the Proclamation of 5th August to refuse to accept the documents or pay for the goods.—*DUNCAN FOX & CO. v. SCHREMPF, C.A.*, 578; 1915, 1 K. B. 365.

15. Trading with the enemy—Company—Incorporation in enemy country—Occupied territory—Trading with the Enemy Act, 1914 (4 & 5 Geo. 5, c. 87)—Trading with the Enemy Amendment Act, 1914 (5 Geo. 5, c. 12), s. 3 (1)—Trading with the Enemy Amendment Act, 1915—Trading with the Enemy Proclamations, September, 1914, and February, 1915.—A company incorporated in Belgium and with a registered office at Antwerp, formed for the purpose of working mines in Portugal, which removed its business to London upon the occupation of Belgium by the German Army.

Held, not to be an "enemy" within the meaning of the Trading with the Enemy Acts and Proclamations. Belgium is not, and cannot be, treated as territory wholly occupied by the enemy.—*SOCIÉTÉ ANONYME BELGE DES MINES v. ANGLO-BELGIAN AGENCY, C.A.*, 679.

See also Probate.

APPEAL:—

1. Parties—County court—Appeal to Court of Appeal from Divisional Court—Death of respondent pending appeal—Jurisdiction of Court of Appeal to add respondent's legal representative.—Where an appeal against a decision of a Divisional Court has been set down, but before the hearing of the appeal the respondent dies, application for leave to add the legal representative of the deceased party can properly be made to the Court of Appeal.

Blakeway v. Potteshall (1894, 1 Q. B. 247) followed.—*HAYWOOD v. FARABEE, C.A.*, 234.

2. Date of sealing judgment—Time for appealing—Date from which time begins to run—R.S.C., ord. 58, r. 15.—The time for bringing an appeal to the Court of Appeal from a judgment in an action is six weeks from the date when it is perfected by being sealed, and not six weeks from the date when it is pronounced.—*CONSERVATORS OF RIVER THAMES v. KENT, C.A.*, 612.

ARBITRATION:—

Costs of and incident to—Case remitted to arbitrator to deal with such costs—Result of appeal not provided for in alternative award as to costs—Death of arbitrator—Summons for taxation under award—Refusal of judge to order taxation.—An arbitrator stated a special case, and directed that if any of his alternative awards in favour of the claimants were upheld by the Court, the parties to the arbitration were to pay the costs of and incidental to the arbitration in certain proportions.

The Court of Appeal decided that the claimants had no right to the return of any money, and, allowing the appeal of the corporation with costs, remitted the case to the arbitrator for him to deal with the costs of and incidental to the arbitration. The arbitrator having died, a summons was taken out by the corporation to tax these costs according to the award.

Held, affirming *Scrutton, J.*, in chambers, that, either intentionally or *per incuriam*, no costs were given in the award in the events which had happened, and therefore there could be no order to tax under the award.—*RE STANLEY BROS. AND NUNEATON CORPORATION, C.A.*, 104.

See also Local Government.

ATTACHMENT OF DEBTS:—

National insurance—Panel doctors—Fees held by insurance committee—Public policy—National Insurance Act, 1911 (1 & 2 Geo. 5, c. 55).—Funds for distribution among panel doctors received by an insurance committee under the National Insurance Act, 1911, may be attached by garnishee proceedings.—*O'DRISCOLL v. MANCHESTER INSURANCE COMMITTEE, C.A.*, 597.

BANKERS.—See Alien Enemy.

BANKRUPTCY :—

1. *Act of bankruptcy—Bankruptcy notice—Married woman—Carrying on a trade or business—Bankruptcy Act, 1913 (3 & 4 Geo. 5, c. 34), s. 12.*—Where a judgment has been obtained, after the date when the Bankruptcy Act, 1913, came into operation, against a married woman who carries on a trade or business, it is available for proceedings against her by bankruptcy notice, although the judgment debt was incurred before the Act came into force.

A woman who promotes hotel companies carries on a business within the meaning of section 12 of the Bankruptcy Act, 1913.—*RE MARY CLARK, C.A.*, 44.

2. *Act of bankruptcy—Petitioning creditor's debt—Notice of suspension of payment—Debt payable at a certain future time—Moratorium Proclamations, 6th August and 1st September, 1914—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 4, sub-section (1) (h); s. 5, sub-section (1) (b).*—A debtor gave notice that he had suspended payment on 9th September, 1914, and a petition was presented against him on 12th September. At that time the Moratorium Proclamation of 1st September, 1914, was in force extending the time for payment of debts to 4th October.

Held, that a receiving order ought to be made upon the petition, for the debt was payable at a certain future time, viz., 4th October, and that there was nothing in the Moratorium Proclamations to prevent a debtor from committing an act of bankruptcy by giving notice of suspension of payment.—*RE SAHLER, Bkey.*, 106.

3. *Depositions of witnesses taken on private examinations—Subsequent motion by trustee—Right of respondent to copies of depositions—Bankruptcy Act, 1914 (4 & 5 Geo. 5, c. 59), s. 25.*—Whenever a notice of motion in bankruptcy states that the depositions of witnesses taken at a private examination under section 25 will be read in support of the motion, the respondent to the motion will be entitled to copies of such depositions on payment of the usual charges therefor. If the respondent succeeds on the motion, the taxing master will decide whether the respondent should be allowed the costs of such copies.—*RE CARILL-WORSLEY, K.B.D.*, 428; 1915, 2 K. B. 534.

4. *Discharge—Allegations that bankrupt had committed criminal offences—Jurisdiction of Court to try charges of crime on application for discharge—Bankruptcy Act, 1890, s. 8.*—On a bankrupt's application for his discharge the Court has no jurisdiction to try whether he has been guilty of criminal offences. The proviso in section 8, sub-section 3, of the Bankruptcy Act, 1890, applies only to cases where the bankrupt has been tried and found guilty by a competent tribunal of any of the offences referred to in the proviso.—*RE WOOD, EX PARTE LESLIE, C.A.*, 334.

5. *Disclaimer—Service of notice of intention to disclaim in foreign countries—Bankruptcy Act, 1914 (4 & 5 Geo. 5, c. 59), ss. 54, 146—Bankruptcy Rules, 1915, rr. 90, 276—Legal proceedings against Enemies Act, 1915 (5 Geo. 5, c. 36), s. 1.*—Notice of intention to disclaim the leases of premises in Belgium or Germany may be sent by ordinary post to the last-known addresses of the landlords of such premises, and should be twenty-eight days' notices. Notices of intention to disclaim the leases of premises in Paris should be twenty-one days' notices.—*RE CURZON BROTHERS, Bkey.*, 430.

6. *Evidence—Answers of bankrupt on public examination—Subsequent motion against the trustee in bankruptcy—Answers of bankrupt not admissible as evidence.*—The answers given by a bankrupt at his public examination are not admissible in evidence in a subsequent motion in the same bankruptcy against the trustee in the bankruptcy.—*RE BOTTOMLEY, EX PARTE BROUGHAM, Bkey.*, 366.

7. *Married woman carrying on a trade or business—Debts incurred in connection with the business—Liability in tort for negligence of servant—Bankruptcy and Deeds of Arrangement Act, 1913 (3 & 4 Geo. 5, c. 34), s. 12.*—A married woman carrying on business who, in the course of carrying on such business, incurs a liability in tort through the negligence of her servant can be proceeded against by bankruptcy notice founded on a judgment in respect of such liability.—*RE ALLEN, EX PARTE SHAW, C.A.*, 130; 1915, 1 K. B. 285.

8. *"Married woman carrying on a trade"—Married Women's Property Act, 1882 (45 & 46 Vict. c. 75), s. 1, sub-section 5—Bankruptcy Act, 1913 (3 & 4 Geo. 5, c. 34), s. 12.*—A woman carried on a trade as a spinster, and ceased to trade actively, but did not pay all her trade debts or collect all her book debts before she married. After her marriage she collected a large number of the book debts, but had not paid all her trade debts when a petition was presented against her.

Held, that at the date of the presentation of the petition she was a married woman carrying on a trade or business, and

subject to the bankruptcy laws as if she were a *feme sole*.—*RE REYNOLDS, C.A.*, 270; 1915, 2 K. B. 186.

9. *Practice—Appeals—Money's worth involved not over £50—Bankruptcy Rules, 1886-1914, r. 129 (1) (a).*—Rule 129 (1) (a), which forbids the bringing of an appeal without leave where it is apparent from the proceedings that the money or money's worth involved does not exceed £50, applies to the money's worth involved in the proceedings before the Court of Appeal, not to the amount originally claimed by the notice of motion in the court of first instance.

Judgment of the Divisional Court (reported 58 SOLICITORS' JOURNAL, 635) reversed.—*RE ARNOLD, EX PARTE HEXT, C.A.*, 9.

10. *Practice—Petition by limited company—Authority to secretary to present petition—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 148.*—An authority under the seal of a limited company to their secretary to present a petition does not authorize the secretary to present a petition founded on an act of bankruptcy committed on a date subsequent to that on which such authority was granted.—*RE A DEBTOR (No. 30 of 1914, Grimsby), K.B.D.*, 130; 1915, 1 K. B. 287.

11. *Property of bankrupt—Relation back of trustee's title—Consent order dealing with partnership assets—Prior acts of bankruptcy by the partners known to the consenting parties—Subsequent adjudication of the partners—Bankruptcy Act, 1914, ss. 37, 38.*—The parties to a motion in a partnership action in the Chancery Division consented to an order dealing with the assets of the partnership. At the date of such order acts of bankruptcy, of which the consenting parties had notice, had been committed by both the partners, who were subsequently adjudicated bankrupt, when the trustee's title related back to the acts of bankruptcy.

Held, that such order was of no force against the trustee, for the assets which it purported to deal with were his property at the date of the order, and he had been no party to the motion whereon it was made.—*RE LEVY & GERSHON, Bkey.*, 440.

12. *Solicitor—Responsibility to a person not a client for unauthorized acts of clerk—Judgment against solicitor by default—Receiving order against solicitor—Appeal to Court of Appeal—Refusal of leave to appeal—Preliminary objection to appeal being heard—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 104 (2) (c).*—A receiving order was made against the appellant, who appealed to the Court of Appeal under the provisions of the Bankruptcy Act, 1883, s. 104 (2) (b). The appeal was heard and dismissed, the Court refusing leave to appeal to the House of Lords. On a preliminary objection against the appeal to the House of Lords being heard,

Held, that such an appeal (leave having been refused) could not be entertained by reason of the prohibition in sub-section (2) (c) of section 104 of the Act of 1883, and, further, that an appeal against the refusal of the Court of Appeal to grant leave was incompetent.

Semble, per Lord Loreburn.—The words "bankruptcy matters" include at all events matters which come within the jurisdiction of the Bankruptcy Court and within the jurisdiction of that Court alone.—*CHATTERTOX v. CITY OF LONDON BREWERY Co., H.L.*, 301.

13. *Taxation of costs—Right of bankrupt to attend taxation of trustee's costs—Constitution of committee of inspection—Sanction of employment of solicitor—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 42, sub-sections (1) (9); s. 57, sub-section (3); s. 73, sub-section (3); ss. 89, 143—Bankruptcy Act, 1890 (51 & 52 Vict. c. 62), s. 15, sub-section (3)—Bankruptcy Rules, 112-114, 117; General Regulations, 16, 17.*—The Court has power, under special circumstances, to give a bankrupt leave to attend the taxation of the trustee's costs against the estate, and will exercise that power in the bankrupt's favour in a case where he has paid his debts in full and has a surplus over. Where there is only one creditor in a bankruptcy, such creditor cannot constitute himself a committee of inspection. Permission to the trustee to employ a solicitor, given by one creditor purporting to act as a committee of inspection, is invalid, and the solicitor has no legal retainer.—*RE GEIGER, C.A.*, 250; 1915, 1 K. B. 439.

See also Emergency Powers.

BILL OF SALE :—

1. *Husband and wife—Grant by husband—Joinder of wife—Wife not interested in goods—Validity of bill of sale—Bills of Sale Act (1878) Amendment Act, 1882 (45 & 46 Vict. c. 43), s. 9.*—A bill of sale of chattels was granted by one L., whose wife, although she had no interest in the goods, was made a party to the bill of sale, and executed it, with the object that she might not in the future be able to claim that she had any interest in the goods in question.

Held, that the bill of sale was not void under section 9 of the Bills of Sale Act (1878) Amendment Act, 1892, as not being made in accordance with the form in the schedule annexed to the Act.—*BRANDON HILL v. LANE, K.B.D.*, 75; 1915, 1 K. B. 250.

2. *Registration—Description of occupation of grantor—Baptist minister—Director of public companies—Reference to means of livelihood—Bills of Sale Act, 1878 (41 & 42 Vict. c. 31), s. 10 (2).*—The occupation of a person making or giving a bill of sale within the Bills of Sale Act, 1878, s. 10 (2), means the occupation in which he is mainly engaged, and by which he earns his livelihood. Where, therefore, the grantor of a bill of sale earned an income as a director of companies, but was also entered on a register of Baptist ministers, and occasionally did duty on Sundays in that capacity in the district in which he lived,

Held, that his occupation was not properly described in the bill of sale as "Baptist Minister," and that the bill was void as against a judgment creditor.

Luckin v. Hamlyn (21 L. T. N. S. 366) explained.—*BARRON v. POTTER, C.A.*, 650.

BREACH OF PROMISE :—

Action against executor—Special damage—Actio personalis moritur cum persona.—Where there is no obligation affecting property on either side in a contract of marriage, the fact that one of the parties suffers pecuniary loss or special damage from the breach of the contract does not impose a liability on the personal representatives of the party who broke the contract.

The plaintiff brought an action to recover damages for breach of promise of marriage, and the defendant died before the pleadings were closed. The plaintiff alleged that she had suffered special damage through having in 1910 given up a business in consideration of a promise by the deceased to marry her, and to take care of her till he did so.

Held, that the right of action did not survive as against the executor, because a pecuniary loss suffered by a woman through giving up employment or a business in contemplation of marriage could not properly be treated as special damage flowing from the breach of promise of marriage, since the plaintiff, under guise of a claim for special damage, was really seeking to recover part of the ordinary exemplary damages which a jury could have given had the testator lived.—*QUIRK v. THOMAS, K.B.D.*, 350; 1915, 1 K. B. 798.

See also Practice.

BRIDGES :—

Canal made across highway—Highway carried by bridge over canal—Alteration in character of ordinary traffic—Statutory duty to keep bridge "in sufficient repair"—Standard of repair—Worcester and Birmingham Canal Act, 1791 (31 Geo. 3, c. 59), s. 61.—By a local Act, passed in 1791, the canal company were empowered to make a canal, and it was provided that the company should not make the canal across any highway, until they should at their own expense have made bridges over the canal, "and all such . . . bridges . . . shall from time to time be supported, maintained, and kept in sufficient repair" by the company.

Held, that the liability to support, maintain, and keep in sufficient repair these bridges imposed by the local Act must be considered with reference to the class of traffic on the roads when the bridges were built some hundred years ago, and did not amount to an obligation on the canal company or their successors in title to maintain and keep up such bridges according to the standard of traffic requirements of the present day.

Decision of Court of Appeal (58 SOLICITORS' JOURNAL, 285; 1914, 3 K. B. 1, 12 L. G. R. 449) reversed, and judgment of Phillimore, J. (1913, 1 K. B. 422), restored.—*SHARPNESS NEW DOCKS, & CO., NAVIGATION CO. v. ATTORNEY-GENERAL, H.L.*, 381.

BUILDING CONTRACT :—

Performance—Lump sum contract—Omission of certain items—Contract substantially performed—Quantum meruit.—Where a builder contracted to repair a house, doing certain specified work for a lump sum, and substantially completed the work, but with certain omissions, leaving the completed work not fully up to specification,

Held, that the omission to carry out perfectly every item of the contract could not be construed as an abandonment of it, and that the builder was entitled to recover on a *quantum meruit* the contract price less the sum necessary to make the work correspond with the contract.—*DAKIN & CO. v. LEE, C.A.*, 650.

BUILDING SOCIETY :—

Winding-up—Certain shareholders paid by liquidator in full under decision of Court—Decision reversed—Right of the liquidator to recover the money overpaid—Payment by mistake—Refunding dividend overpaid.—A building society carried on a banking business. In its liquidation the court of first instance held this to be *ultra vires*, and postponed the claims of the depositors of such banking business until the shareholders had been paid in full. This decision was upheld by the Court of Appeal, and the liquidator paid certain shareholders in full, but the decision of the Court of Appeal was subsequently varied by the House of Lords, who ordered the shareholders and depositors to rank *pari passu* in the distribution.

Held, that the Court had jurisdiction to order a return of moneys paid by the liquidator to shareholders under the Court of Appeal decision, but in excess of their rights as decided by the House of Lords, and that this was a proper case in which such jurisdiction should be exercised.—*RE BIRKBECK BUILDING SOCIETY, Neville, J.*, 89; 1915, 1 Ch. 91.

CHARITY :—

1. *Absolute gift by will—Secret trust—General charitable intent—"Benefit and protection of animals"—Gift tending to promote public morality.*—A testatrix by her will, after bequeathing legacies and annuities, declared that her residuary estate should be in trust for her cousin W. The gift was in terms absolute, but W. admitted that the testatrix desired and intended him to devote both capital and income "for the benefit and protection of animals" in such manner as he should in his discretion think fit, and had communicated such intention to him, and that he accepted the trust. The testatrix also in her lifetime gave him £600 to reimburse him for any trouble or expense to which he might be put in connection with the trust.

Held (reversing *Neville, J.*), that the gift of residue was not beneficial, but was impressed with a trust.

Held, further, that although the benefits of the trust were not intended to be confined to animals useful to mankind, a good, charitable trust was created, tending to promote public morality and to check cruelty to animals.—*RE WEDGWOOD, C.A.*, 73; 1915, 1 Ch. 113.

2. *Bequest to school to build fives court—Bequest to provide prize for school athletic sports—Validity.*—A legacy to a school to build a fives court or squash rackets courts, and a legacy to provide a prize for some event in school athletic sports, are good charitable gifts.—*RE MARIETTE, Eve, J.*, 630.

3. *Will—Gift to vicar and his successors—Charitable gift—Condition as to repair of tomb—Police superannuation fund—Invalid condition—Identity—Destination of the fund—Uncertainty—Police Act, 1890 (53 & 54 Vict. c. 45), ss. 1, 2, 7, 14, 16, 18, 19, 22, 30, 33, 36, and Schedules I. and III.*—Where there was a gift to a vicar and his successors of money for the upkeep of a grave, with a condition that on default of such upkeep at any time there should be a gift over to a non-charitable object, it was held that the gift was a good charitable gift, but that the condition was bad, and accordingly the vicar and his successors took the gift as an accretion to the endowment of the living.

Re Tyler, Tyler v. Tyler (1891, 3 Ch. 252), followed.

A gift to a "police superannuation fund" is not a sufficiently clear indication of an intention to benefit the "Police Pensions Fund."

If such words are a sufficiently clear indication of an intention to benefit the "Police Pensions Fund" then the "Police Pensions Fund," not being a charity, the gift fails.

A gift of residue to the Police Superannuation Fund of the Cardiganshire Constabulary failed, because there was no such institution.—*RE DAVIES, LLOYD v. CARDIGAN COUNTY COUNCIL, Neville, J.*, 413; 1915, 1 Ch. 543.

See also Rating, Will.

CINEMATOGRAPH :—

1. *Entertainment—Application for renewal of music and cinematograph licences—Majority of directors and shareholders aliens—Discretion of renewal council to refuse applications—Disorderly Houses Act, 1751 (25 Geo. 2, c. 36), s. 2—Cinematograph Act, 1909 (9 Ed. 7, c. 30), s. 2 (1).*—A limited company applied for the renewal of licences for music and cinematograph performances held at three London theatres of which they were the managing owners. The licensing council decided that as the majority of the shares in the company were held by German shareholders, who could not vote by proxy in this country after the outbreak of the war, and having regard to the fact that the German directors might yet influence the management, although they had retired, and their place on the board was filled

by men of English nationality, the applications should be refused. A Divisional Court having discharged rules nisi for mandamus, obtained by the company directed to the London County Council on the ground that the licensing authority had a discretion to refuse the renewal, the company appealed.

Held, dismissing the appeal, that the licensing authority was justified in considering the shareholding and management of a company applying for the renewal of music and cinematograph licences, and in exercising their discretion on that basis were not actuated by extraneous considerations which they should not have entertained.

London County Council v. Bermondsey Bioscope Co. (Limited) (1911, 1 K. B. 445) considered and followed.—*REX v. LONDON COUNTY COUNCIL*, C.A., 332; 1915, 2 K. B. 466.

2. *Kinematograph exhibition—Pictures shown to intending purchasers or hirers only—Licence—Necessity for—Cinematograph Act, 1909* (9 Ed. 7, c. 30), s. 1.—*Compliance with regulations under the Act.*—The word "exhibition" in section 1 of the Cinematograph Act, 1909 (9 Ed. 7, c. 30), applies only to a public entertainment where an exhibition of a cinematograph picture takes place, and does not apply to a case where a dealer *bona fide* in the exercise of his trade exhibits his films to his customers only by running them through his machine in his own projection-room on his own premises.—*ATTORNEY-GENERAL v. VITAGRAPH CO.*, *Astbury, J.*, 160; 1915, 1 Ch. 206.

COMPANY :—

1. *Arbitration clause in articles of association—Action commenced by member—Application to stay—Submission to arbitration—Statutory agreement between the members and the company—Arbitration Act, 1889* (52 & 53 Vict. c. 49), ss. 4 and 27.—*Companies (Consolidation) Act, 1908* (8 Ed. 7, c. 69), s. 14, sub-section 1.—Where the articles of association of a company provide for differences to be referred to arbitration, this is to be treated as a statutory agreement between the company and its members and constitutes a submission to arbitration within the Arbitration Act. The contract contained in the plaintiff's application for membership also constituted a submission to arbitration, and accordingly a stay of the action was granted.—*HICKMAN v. KENT OR ROMNEY MARSH SHEEP BREEDERS' ASSOCIATION*, *Astbury, J.*, 478; 1915, 1 Ch. 881.

2. *Articles of association incorporated in contract—Articles of association altered—Breach of contract—Injunction.*—Where, under a sale agreement between the plaintiff syndicate and defendant company, it was provided that, so long as the plaintiff syndicate held at least 5,000 shares in the defendant company, they should have the right of nominating two directors on the defendant company's board, and there was a recital in the agreement that the defendant company's memorandum and articles of association had been already prepared with the privity of the syndicate, and where by article 88 it was provided that, so long as the plaintiff syndicate held at least 5,000 shares in the company, it should have the right of nominating two directors,

Held, that the company could be restrained from altering its articles for the purpose of committing a breach of its contract, one of the terms of which was that the articles should not be altered, and that the plaintiff syndicate were entitled to a declaration that the two persons nominated by them as directors of the defendant company, and refused by the defendant company, were directors thereof.

Allen v. The Gold Reefs of West Africa (1900, 1 Ch. 656) followed.

Punt v. Symons & Co. (1903, 2 Ch. 506) held to be overruled by *Bailey v. The British Equitable Assurance Co.* (1904, 1 Ch. 374).—*BRITISH MURAC SYNDICATE v. ALPERTON RUBBER CO.*, *Sargant, J.*, 494; 1915, 2 Ch. 186.

3. *Contract to purchase property of another company—Director interested in subject-matter of contract—Trustee—Contract set aside as invalid.*—By resolutions passed at a board meeting of a company, at which only two directors, the minimum number necessary to form a quorum, voted, the company was authorized to purchase shares from another company, and also to allot a block of forfeited shares to the second company. One of the directors of the first company held 1,000 shares in the second company as trustee for other persons, and voted without having disclosed his interest. The articles provided that no director should vote in respect of any contract in which he was concerned.

Held (affirming the decision of *Astbury, J.*), that both resolutions were invalid, and that the transactions must be set aside.—*TRANSVAAL LANDS CO. v. NEW BELGIUM LAND CO.*, C.A., 27.

4. *Limited by guarantee—Full calls made on only some members of class—Validity—Injunction—Declaration of right.*—There is, in the absence of special circumstances, an implied equality of

condition among members of a company of the same class, and where the plaintiff had a full call made upon him which was not made upon the other shareholders in the same class, such call was not enforceable.

British and American Trustee and Finance Corporation v. Crouper (1894, A. C. 399, 417) applied.

It is, *prima facie*, wrong to make a call on some members of a class and not on others, although it may be that, under some circumstances, it would be justified; but where the applicants had been dilatory in paying previous calls, such dilatoriness was no sufficient reason for the committee exercising a discrimination against them.

Preston v. Grand Collier Dock Co. (11 Sim. 327) approved.—*GALLOWAY v. HALLÉ CONCERTS SOCIETY*, *Sargant, J.*, 613; 1915, 2 Ch. 233.

5. *Majority of shareholders unable to obtain poll—Resolutions passed by minority—Change of original policy of company—Interlocutory injunction.*—A court of equity will grant interlocutory relief by way of injunction till the trial of the action in cases where there is a majority of shareholders taking one view and a minority, able by reason of a technicality which may or may not in itself be sufficient to entitle the minority to succeed in the action, endeavouring to enforce their contrary view upon the majority of the shareholders of the company.

Principle of Bainbridge v. Smith (41 Ch. D. 462) applied.—*CORRY v. REINDEER STEAMSHIP CO.*, *Sargant, J.*, 629.

6. *Memorandum of association—Petition to confirm alteration of objects—Extension of principal objects—Addition of other objects incidental to the principal objects—Principles by which the Court is governed in sanctioning alterations in the memorandum of association.*—Although the Court will consider the desirability of altering a memorandum of association of a company so as to enable the company to adopt another business not subsidiary to its present business, but which the company intends now to carry on, the Court will not make provision to meet the possibility of the company desiring at some future time to carry on yet another class of business.—*RE JOHN BROWN & CO. (LIMITED)*, *Neville, J.*, 146.

7. *Mortgages—Priority—Registration—Unregistered mortgage of land—Debenture subsequently issued to director and registered—Notice of unregistered mortgage—Companies (Consolidation) Act, 1908* (8 Ed. 7, c. 69), s. 93.—The priority of mortgages of any of its property granted by a company depends entirely on due registration of such mortgages under section 93 of the Companies (Consolidation) Act, 1908. The equitable doctrine of notice in cases under the Middlesex Registry Acts and the Judgments Act, 1855, under which a subsequent incumbrancer with notice of a prior unregistered mortgage is not allowed to obtain priority by registration of his mortgage, does not apply and will not be extended to the registration of charges under the Companies Act.

Edwards v. Edwards (2 Ch. D. 291) followed.
Decision of *Astbury, J.* (*ante*, p. 41), reversed.—*RE MONOLITHIC BUILDING CO.*, C.A., 332; 1915, 1 Ch. 643.

8. *Receiver—Jeopardy—One debenture-holder—Charge on specific articles—Usual "floating charge" condition—Fixed charge not altered thereby—Right to have receiver of the specific articles—No right to have receiver and manager of the property and assets of the company.*—Where judgments have been recovered against a company and execution is likely to issue, there is jeopardy within the meaning of *Re New York Taxicab Co.*, *Sequin v. The Company* (57 SOLICITORS' JOURNAL, 99).

Where a debenture gave a charge on specific articles, but one condition contained the words commonly used in reference to floating charges, "but so that the company is not to be at liberty to create any mortgage or charge in priority to or *pari passu* with the said debentures,"

Held, that these words could not be construed as implying the creation of a floating charge contrary to the specific charge already given by the debenture.

The amount of property contained in the specific charge being ample.

Held, that the fact of jeopardy did not of itself entitle the plaintiff to the appointment of a receiver and manager of the whole of the assets and business of the company, but only to have a receiver appointed of the assets specifically charged.—*GREGSON v. TAPLIN & CO.*, *Sargant, J.*, 340.

9. *Receiver and manager appointed out of Court with certain consents purporting to be consents of majority of debenture-holders—Consent of equitable mortgage holding the majority of the debentures not obtained—Right of the Court to appoint another receiver and manager—"Majority."*—Where a receiver and manager was appointed, in accordance with the terms of a condition in the debentures that such receiver and

manager might be appointed with the consent in writing of the holders of a majority in value of the debentures, but this majority was, in fact, obtained by the consents of holders who had executed equitable mortgages of their shares.

Held, on the motion for the appointment of a receiver by the Court, to supersede such receiver appointed as aforesaid, that, as the beneficial interest in the shares equitably mortgaged had been parted with, a true majority had not been obtained in accordance with the terms of the condition, and the Court accordingly appointed a receiver and manager.—*RE SLOGGER AUTOMATIC FEEDER CO., Neville, J., 272; 1915, 1 Ch. 478.*

10. *Registration in England—Share capital held by alien enemies—Whether company can sue during war—Trading with the Enemy Act, 1914 (4 & 5 Geo. 5, c. 87), ss. 1 (3), 2 (2) (b).*—A company registered in England under the Companies Act, but the share capital of which was substantially wholly held by alien enemies, sued on certain bills of exchange, dated May and June, 1914. The defendants had accepted the bills before the declaration of war, but the bills had matured after the date when war was declared.

The same company brought another action against other defendants under order 14, claiming to sign summary judgment for the balance of an account for goods supplied to the defendants prior to the declaration of war.

In both cases judgment was given in favour of the plaintiffs. The defendants, in both cases, appealed.

Held, that the character of the plaintiff company had not changed because, on the outbreak of the war, all the shareholders and directors resided in an enemy country, and, therefore, became alien enemies. (Buckley, L.J., *dissentiente*). The plaintiff company, therefore, was in each case entitled to maintain the action, inasmuch as the right of such a company to trade in England, and the right of British subjects to trade with it in England, were recognized by the Trading with the Enemy Act, 1914, and by the Proclamations issued thereunder.

Decision of Lush, J., in *Continental Tyre and Rubber Co. (Great Britain) (Limited) v. Thomas Tilling (Limited)* (ante, p. 106), affirmed.—*CONTINENTAL TYRE AND RUBBER CO. v. DAIMLER CO., A.C., 232; 1915, 1 K. B. 893.*

11. *Sale contract—New issue of capital—Sanction of Treasury—Refusal of—Contract at an end—Motion by purchaser company to restrain vendor company from selling elsewhere.*—Where a contract between two companies shewed that it was to be performed in a short time, and provided for sale, so much to be paid in cash on or before 15th April, 1915, "or at a date not being later than one calendar month after the sanction of the Treasury has been obtained to the issue" of certain capital, and there had been an unconditional refusal by the Treasury to sanction the new issue,

Held, that the purchasing company were not entitled to have their contract performed.—*EAST INDIES COMMERCIAL CO. v. NILAMBUR RUBBER ESTATES, Sargant, J., 613.*

12. *Voluntary winding-up—Surplus assets—Creditors barred by the Statute of Limitations—Liquidator willing to pay them—Opposition of shareholders—Summons by liquidator—Order to apply "in due course of administration"—Subsequent payment of a statute-barred creditor—Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69), s. 186.*—A voluntary liquidator's unfettered discretion to pay statute-barred debts (if it exists) is gone when he has actually applied by summons to the Court to determine the question whether such payment can be made, and has been ordered to apply surplus assets "in a due course of administration," and any payment subsequent to that order of a statute-barred debt is improper.—*RE FLEETWOOD ELECTRIC LIGHT AND POWER SYNDICATE, Astbury, J., 383; 1915, 1 Ch. 486.*

13. *Winding-up—Costs—Respondent to winding-up petition—Subsequently added as contributory—Application to remove name from list—Costs of such application to be paid to the liquidator—Set-off—R.S.C., ord. 65, r. 14—Companies Winding-up Rules, 1909, r. 187 (1).*—Where a limited partner was joined as a respondent to a petition to wind up and did not oppose, and his costs were ordered to be paid out of the assets of the limited partnership, and he was subsequently placed on the list of contributories and incurred costs payable to the liquidator on an application to have his name removed from such list,

Held, that the liquidator could not set off such two sets of costs one against the other, because the costs of the winding-up stand on a different footing from other costs in being incurred for the benefit of everybody concerned.

Principle enunciated by Lord Romilly, M.R. in *General Exchange Bank* (1867, 4 Eq. 138) applied.—*RE BEER, Sargant, J., 510*

14. *Winding-up—Creditor's petition—Opposition of minority of creditors—Opponents interested in preservation of company—"Regard to wishes of creditors"—Companies Act, 1908 (8 Ed. 7, c. 69), ss. 129, 145.*—A petition to wind up a company on the ground of its inability to pay its debts ought not to be refused or ordered to be stayed until after the war merely because it is opposed by creditors representing a minority in amount, and the less weight should be given to the wishes of such creditors where it appears that they are interested in preventing a forced realization of the assets of the debtor company.—*RE OILFIELDS FINANCE CORPORATION, C.A., 475.*

15. *Winding-up—Distribution of surplus assets—Validity of issue of additional capital—Company incorporated under Companies Act, 1862 (25 & 26 Vict. c. 89)—Table A adopted—Additional capital authorized by a provisional order—No special resolution for increase of capital—Right of holders of such capital to share in distribution.*—Where the articles provided that the capital of a certain gas and water company might be increased by special resolution, and provisional orders were made under the Gas and Waterworks Facilities Act, 1870, purporting to effect such increase of capital,

Held, that the issue of such additional capital was valid, and that the holders thereof were entitled to be treated as members in the distribution of the surplus assets, although no special resolution had in fact been passed authorizing such issue.—*RE NEW TREDEGAR GAS AND WATER CO., Neville, J., 161.*

16. *Winding-up—Liquidator—Call on shares—Committee of inspection—Committee consisting of two contributories and one creditor—Refusal by committee to sanction call—Application by liquidator to the Court—Appeal from committee—Jurisdiction—Independent inherent jurisdiction in the Court—Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69), ss. 165, 166 and 173—Companies (Winding-up) Rules, 1909, r. 83.—1. Sections 165, 166 and 173 of the Companies (Consolidation) Act, 1908, and rule 83 of the Companies (Winding-up) Rules, 1909, are not in conflict.*

2. Although the Court has regard to the opinion of the committee of inspection, it has, nevertheless, a clear alternative and inherent original jurisdiction, not by way of appeal, but by way of original right, to review the decision of the committee of inspection.

3. Section 173 of the Companies (Consolidation) Act, 1908, itself provides for an alternative method by the words being in the alternative, "the special leave of the Court or the sanction of the committee."

4. In the cases of calls, the creditors' claims must always have the first consideration.—*RE NORTH-EASTERN INSURANCE CO., Sargant, J., 510.*

17. *Winding-up—Petition of unsecured creditors—Assets covered by debentures—Opposition by creditors—Special circumstances—Just and equitable—Companies (Consolidation) Act, 1908, ss. 129, 141, 145, 219.*—An order to wind up a company will be made where it is in the interest of innocent creditors that the company should not be allowed to go on trading and obtaining credit when hopelessly insolvent.

Re Alfred Melson & Co. (Limited) (1906, 1 Ch. 841) applied.

There is ample jurisdiction to wind up a company although the assets will be entirely absorbed in paying off the debentures: *Re Chic (Limited)* (1905, 2 Ch. 345).—*RE CLANDOWNS COLLIERY CO., Astbury, J., 350; 1915, 1 Ch. 369.*

18. *Winding-up—Practice—Employment of solicitor—Resolution of shareholders—Committee of inspection—Appointment of liquidator—Disagreement with liquidator—Application to Court ex parte—Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69), ss. 151 and 158.*—A liquidator, without informing the committee of inspection, obtained an order on an *ex parte* application to the registrar for the employment by him of a certain firm of solicitors to act for him in the liquidation. On a motion by the committee to discharge the order,

Held, that the liquidator was bound, under section 158, to have regard to the express wishes of the committee of inspection, and if he thought they were acting unwisely, he should take the opinion of the creditors and contributories, which opinion would override that of the committee.—*RE CONSOLIDATED DIESEL ENGINE MANUFACTURING CO., Neville, J., 234; 1915, 1 Ch. 192.*

19. *Winding-up—Set off of cross-claims—Share in surplus assets—Dividend on ascertained debt—Executor's claim to share in surplus assets—Principle of contribution to fund preceding participation therein—Insolvent shareholder indebted to the company.*—The liquidator of a company is not entitled to set off against the share due to the estate of an insolvent person in the surplus assets of the company the whole amount of a certain ascertained debt due by the insolvent person's estate to the company, for then the company would be in the position of a fully secured creditor

of the estate of the insolvent person. At the time when the right arose the persons between whom it arose were the liquidator on the one hand and the executors of the insolvent person on the other hand, and the amount for which the executors were liable was not the full amount of the ascertained debt, but such dividend on that debt as the executors could pay in a due course of administration.

Cherry v. Boulthée (1839, 4 My. & Cr. 442) followed.—*RE PERUVIAN RAILWAY CONSTRUCTION Co., Sargant, J.*, 579; 1915, 2 Ch. 144.

20. *Winding-up—Voluntary—Subsequent compulsory winding-up—Preferential claim for salary—Commencement of winding-up—Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69), s. 209.—Section 209 of the Companies (Consolidation) Act, 1908, provides: "(1) In a winding-up there shall be paid in priority to all other debts . . . (b) salary of any clerk . . . in respect of services rendered to the company during four months before the said date not exceeding £50. . . (5) The date hereinbefore in this section referred to is (a), in the case of a company ordered to be wound up compulsorily, which had not previously commenced to be wound up voluntarily, the date of the winding-up order; and (b) in any other case, the date of the commencement of the winding-up." In this case, in the voluntary winding-up, which commenced on 23rd June, 1913, a claim for preferential payment under this section was admitted by the voluntary liquidator; but on 9th July there was a petition for compulsory winding-up, on which an order for compulsory winding-up was made on 21st July, and in this winding-up the Official Receiver, who was the liquidator under the compulsory order, disallowed the claim on his interpretation of what the words "commencement of the winding-up" meant in the section.*

Held, that the commencement of the winding-up meant the time of the presentation of the petition for compulsory winding up, and not the resolution to wind up voluntarily, and that, accordingly, the preferential claim must be disallowed.—*RE HAVANA EXPLORATION Co., Neville, J.*, 666.

See also *Alien Enemy, Emergency Powers, Moratorium.*

COMPULSORY PURCHASE:—

Street widening—Interference with main structure of building—Forecourt of chapel taken—Access rendered inconvenient and dangerous without structural alterations—Injunction—Lands Clauses Act, 1845 (8 & 9 Vict. c. 18), s. 92—London County Council (Tramways and Improvements) Act, 1913, (2 & 3 Geo. 5, c. cvi.), s. 18.—A corporation was empowered by statute to acquire, for the purpose of street widening, certain premises scheduled therein, or such part thereof as they might require, subject to a proviso that it should not be entitled to take or interfere with the main structure of any house or building. The corporation proposed to take the forecourt of a chapel situate on a steep hill, so that the access to the building would be practically destroyed, or rendered dangerous, unless extensive structural alterations were made to the building.

Held, that the proposal amounted to an interference with the main structure of the chapel, to be restrained by injunction. The whole property must be purchased if the forecourt was required.—*GENDERS v. LONDON COUNTY COUNCIL, C.A.*, 58; 1915, 1 Ch. 1.

See also *Lands Clauses Act.*

CONFLICT OF LAWS:—

*Will made by a Dutch subject in Holland—Personal estate—Restriction on testamentary capacity by foreign law—Enlargement of testamentary capacity by subsequent acquisition of English domicile—Effect on will made before the change of domicile.—A Dutch woman made a will in the Dutch language, with the proper formalities of Dutch law, at Utrecht, and appointed her then intended husband as heir of her estate, "with reservation only of the legitimate portion or the lawful share coming to her relations in a direct line in so far as they may exist at her death, and may be competent and able to inherit from her," and in the event of her husband not being her sole heir, she appointed him executor, with right of possession of all her effects, movable and immovable, forming her estate during one year after her decease. The marriage was duly solemnized, and the husband and wife subsequently became domiciled in England, where the husband became a naturalized British subject. The wife died in 1903, and probate of her will was granted to her husband (*In the Goods of Jeanne Theodora Groos*, 1904, P. 269), limited to the period of one year from the death of the testatrix. It was proved that according to the law of Holland (1) marriage did not revoke a will; (2) the wife could only dispose of one-fourth share of her property in favour of her husband, the remaining three-fourths going, as their legitimate portions, to her children. This was a summons to determine who were the persons entitled to the testatrix's estate, and in what shares and proportions.*

Held, (1) that the change in domicile of the testatrix had had the effect of enlarging her testamentary capacity, so that she was now enabled to dispose of all her estate; (2) that the testatrix had, in fact, disposed of all her estate in favour of her husband, because the reservation of the "legitimate portion" was only a recognition of the rights of the children according to Dutch law. The principle laid down in *Re Bridger, Brompton Hospital for Consumption v. Lewis* (1894, 1 Ch. 29), which was a case of enlargement of capacity by the passing of the Mortmain and Charitable Uses Act, 1891, applied to the present case.—*RE GROOS, Sargant, J.*, 477; 1915, 1 Ch. 572.

CONTEMPT:—

Practice—Motion to issue writ of sequestration—Company—Prohibitive order against—Order disobeyed—Personal service thereof.—A motion to sequester, which is the only remedy against a company which disobeys a prohibitive order of the Court, will not be invalidated by reason of the order disobeyed not having been personally served upon the company, although duly served upon the solicitors of the company. In the case of an individual, committal would have been the proper remedy for breach of a prohibitive order, and such committal could be had without personal service of the order disobeyed.

Re Tuck (1906, 1 Ch. 696) not applicable to such a case as this.

The principle of *D. v. A. & Co.* (1900, 1 Ch. 484) applied.—*ABERDONIA CARS v. BROWN & Co., Neville, J.*, 598.

CONTRACT.—See Building Contract, Company, Moratorium, Restraint of Trade, War.

CONVERSION:—

Family arrangement—Conveyance of freeholds to trustees—Trust to sell upon request in writing of settlors—Trusts of rents and profits until sale for settlors, their heirs, executors, administrators, and assignees—Death of one of the settlors intestate—No request to sell—Whether freeholds are converted into money or not.—Where certain persons by a deed of family arrangement conveyed freeholds to trustees upon trust to sell upon their request in writing, and to hold the rents and profits until sale for those persons, their heirs, executors, administrators and assignees, and one of these persons died intestate without having requested some of the settled property to be sold,

Held, that the infant heir-at-law took, as the freeholds were not converted into money in these circumstances.

There is no rule in the authorities on the point, such as *Huskisson v. Lefevre* (1858, 26 Beav. 157) and *Attorney-General v. Dodd* (1894, 2 Q. B. 150), requiring the Court to place other than a natural construction upon such a deed as this.—*RE GOSWELL'S TRUSTS, Younger, J.*, 579; 1915, 1 Ch. 106.

See also *Will.*

COPYRIGHT:—

1. *Literary work—Music hall song—Simultaneous publication at home and abroad—"Issue . . . to the public"—Words of second song based on similar idea—Not a "copy or a colourable imitation"—Copyright Act, 1911 (1 & 2 Geo. 5, c. 46), s. 1, sub-section 3; s. 2, and s. 35, sub-sections 1, 3.—Twelve copies of a song composed in America were sent by the owners of the American copyright to publishers in London, with instructions to copyright the song in the United Kingdom on a day named, on which day the firm filed one copy in their office, sent five to the British Museum and University Libraries, and exposed the remainder in an open box, marked "New Publications," on a counter in their retail department. There was no sale until sometime later, when the song had been performed in public.*

Held (affirming *Neville, J.*), that this was a publication in the United Kingdom on the day in question.

To constitute infringement it is not sufficient for a second work to be based on the same idea as, or to contain similarities of diction to the original work; it must be a copy or colourable imitation.

Held, on the facts (reversing *Neville, J.*), that there was no infringement.—*FRANCIS DAY & HUNTER v. FELDMAN, C.A.*, 41; 1914, 2 Ch. 728.

2. *Music—Record for mechanical performance—Orchestral score adapted from pianoforte accompaniment—Infringement—Copyright Act, 1911 (1 & 2 Geo. 5, c. 46), s. 1, sub-section 2; s. 19, sub-sections 2, 7.—The defendants, who were manufacturers of records for the mechanical reproduction of music, gave notice to the composer of a song published with pianoforte accompaniment that they intended to make records of the music, and paid him the royalties prescribed by the Copyright Act, 1911. They caused*

copies of the music to be made adapted for orchestral performance, for the purpose of making the records.

Held, that such copies were an infringement of the plaintiff's copyright in the song, and that all the records so made with the original matrix must be delivered up to be destroyed.—*CHAPPELL & Co. v. COLUMBIA GRAPHOPHONE Co., C.A., 6; 1914, 2 Ch. 745.*

CORPORATION:—

1. *Councillor—Accountant elected mayor—Sale of his business in consideration of a yearly sum—Payments to cease if purchasers ceased to act as accountants for corporation—Payments in fact made—Duty owed to corporation—Claim to recover payments as money had and received—Municipal Corporation Act, 1882 (45 & 46 Vict. c. 50), s. 12 (1) (c).*—L. acted as accountant and rate collector to the Corporation of P. He was elected mayor in 1904, and thereupon assigned his business to his son and another, the consideration for the sale being (*inter alia*) a payment of £150 a year for five years, if so long the purchasers should continue to act for the corporation. Payments during five years were made to L. in accordance with the terms of the deed. In 1913 L. died. The corporation brought this action against his executors, claiming that the £750 paid to the deceased was received by him to their use contrary to the duty owed by him to them, and therefore recoverable as money had and received, or alternatively that it was in the nature of a bribe.

Held, that there was no evidence that L. acquired the profit in question in the course of or by means of his position as agent of the corporation, nor that the money he received was in any sense a bribe.

Decision of Bray, J., in favour of the defendants affirmed.—*PONTEFRAC CORPORATION v. LOWDEN, C.A., 398.*

2. *Freemen's rights to depasture cattle on town moor—Transfer of stint tickets—Reservation of parts of moor for annual fairs—Temperance festival—Licence to bring roundabouts and shows on moor—Damage to herbage—Powers of corporation—Consent of freemen—Injunction—Measure of damages—Town Moor Act, 1774 (14 Geo. 3. c. cv.)—Newcastle-upon-Tyne Improvement Act, 1870 (33 & 34 Vict. c. cxx.).*—Under local Acts of 1774 and 1870, the soil of the town moor, a common within the city of Newcastle-upon-Tyne, was vested in the corporation, and the herbage rights in the freemen and widows of freemen, each being entitled to depasture two milch cows thereon. A certain portion of the moor was set aside for the holding of fairs and horse-races, and the corporation and a committee of stewards representing the freemen were, by the Act of 1870, empowered jointly to make agreements for the appropriation of parts of the moor for agricultural shows, reviews, and other public purposes. In 1882 the races hitherto held on the moor were removed elsewhere, and the corporation and the committee of freemen jointly gave a licence for the holding of a temperance festival on the race ground, which had since been held annually. Owing to great damage having been caused, in 1912, to the herbage by the use of heavy traction engines to bring roundabouts, &c., to the festival, the committee of freemen refused to concur in granting a licence to the defendants to attend with their roundabouts, but such licence was granted by the corporation alone, and the festival was held as usual. On the committee suing the defendants for an injunction and damages,

Held (affirming Neville, J.), (1) that the temperance festival was not a "fair" within the meaning of the local Acts; (2) that the corporation was not entitled to grant a licence to the defendants without the concurrence of the plaintiffs; (3) that the defendants were trespassers and the plaintiffs were entitled to an injunction against them and damages; (4) that the plaintiffs would hold the damages recovered as trustees, and the defendants were not concerned with the application thereof.—*WALKER v. MURPHY, C.A., 88; 1915, 1 Ch. 71.*

COSTS:—

1. *Payment out—Plaintiff in action made respondent to petition—Such respondent entitled to separate set of costs out of fund.*—Where five of the plaintiffs in an old action commenced by bill of complaint petitioned the Court for payment out of funds standing to the credit of the action and made the sixth plaintiff and certain defendants to the bill and certain incumbrancers of the sixth plaintiff respondents to the petition,

Held, that the plaintiff respondent was entitled to have a separate set of costs of the petition.—*EDWARDS v. PERRY, Sargant, J., 302.*

2. *Shorthand note of proceedings—Agreement between parties before trial—No implied agreement making costs costs in the action—Costs equally divided—R.S.C., ord. 65, r. 27.*—Where, before the trial of an action, the parties have agreed that a shorthand note of the proceedings shall be taken, and a transcript made and provided for the Judge, that implies an agreement that the

costs of taking and transcribing the note shall be borne by the parties equally, and the taxing-master has no power to allow such costs as costs in the action, without an express agreement to that effect.

Hebert v. Royal Society of Medicine (56 SOLICITORS' JOURNAL, 107) distinguished, as being confined to costs in the Court of Appeal.—*SEAL v. TURNER, C.A., 649; 1915, 3 K. B. 194.*

3. *Taxation—Case for counsel before action—Not conveyancing—Perusing particulars—Schedule of documents prepared for new solicitors—Solicitor and client—Solicitors' Remuneration Act, 1881 (44 & 45 Vict. c. 44), s. 2—General Remuneration Order, r. 2, Schedule II.—Practice masters' notes in annual practice—Appendix N. to Rules of Supreme Court, 1883—Two shillings per folio is a proper charge for "drawing a case for the opinion of counsel" before litigation in non conveyancing business. It is "other business" within section 2 of the Solicitors' Remuneration Act, 1881. *Stanford v. Roberts* (26 Ch. D. 155) is not a decision to the contrary.*

Re Mahon (1893, 1 Ch. 507) applied.

"Particulars" are a "pleading" within the meaning of R.S.C., 1883, Appendix N., and six shillings and eight pence is a proper charge for perusing them.

Milbank v. Milbank (1900, 1 Ch. 376) followed.

A charge of ten shillings for a schedule of deeds to be handed to the client's new solicitors is a proper charge, as it is for the benefit of the new solicitor, who could have refused to accept it.

Re Catlin (18 Beav. 508) is not an authority to the contrary.—*RE MORGAN & Co., Neville, J., 289; 1915, 1 Ch. 182.*

4. *Taxation—Solicitor and client costs—Basis of taxation where costs are to be paid by opposite party—Rules of Supreme Court, 1883, ord. 65, r. 27, sub-rule 29.*—By the terms of settlement of an action the plaintiff was to have judgment for £500 and costs, "as between solicitor and client, to be taxed, if necessary." Ord. 65, r. 27, sub-rule 29, directs that "on every taxation the master shall allow all costs, charges, &c., as shall appear to him to have been necessary or proper . . . but, save as against the party who incurred the same, no costs shall be allowed which appear to the taxing-master to have been incurred or increased by payment of special fees to counsel, or special charges or expenses to witnesses or other persons, or by other unusual expenses." On taxation the master taxed on the basis of solicitor and client where the costs were to be paid, not by the client, but by a third party, *i.e.*, substantially on the basis of party and party costs, with certain allowances for necessary letters to and attendances on the client. The plaintiff objected to the taxation.

Held, that the distinction was well established between taxation where the party paying the costs was the solicitor's own client and where such party was a third party. That the taxing-master was right in applying that mode of taxation to the present case, which, in the opinion of the Court, fell within the second part of the sub-rule 29.

Per Buckley, L.J.: Cavendish v. Strutt (1904, 1 Ch. 525) considered and explained.—*GILES v. RANDALL, C.A., 131; 1915, 1 K. B. 250.*

5. *Two actions—Same parties—Plaintiff successful in one, defendant successful in the other—Power to set off costs—R.S.C., ord. 65, rr. 14, 27 (21).*—A plaintiff brought an action against the defendant and another action against the defendant and his wife. He succeeded in the first, but failed in the second action. Scrutton, J., made an order setting off the plaintiff's costs in the first action against the defendant's costs in the second action. The plaintiff appealed. The Court dismissed the appeal.

Decision of Scrutton, J. (30 T. L. R. 271), affirmed.—*REID v. CUPPER, C.A., 144; 1915, 2 K. B. 147.*

See also *Alien Enemy, Arbitration, Solicitor.*

COUNTY COURT:—

1. *Bankruptcy order of county court judge for payment of money—Action in High Court on order—County Court Rules, 1903 ord. 25, r. 2—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 100—Bankruptcy Rules, 1886, r. 93.*—A married woman executed a deed of assignment of her property for the benefit of her creditors and appointed the defendant trustee. A bankruptcy petition founded on that act of bankruptcy was presented against her in the county court, and she was adjudicated a bankrupt, and the Official Receiver appointed trustee in the bankruptcy. An order was obtained in the county court that (the Official Receiver having elected to treat the defendant as a trespasser) the defendant should pay to the Official Receiver the amount which might be found due from him in respect of the bankrupt's property and book debts. The Registrar found that £178 was due from the defendant to the Official Receiver, who thereupon instituted an

action in the High Court to recover that amount from the defendant.

Held (Bray, J., dissenting), that the action was maintainable.—*SAVILL v. DALTON*, C.A., 562; 1915, 3 K. B. 174.

2. *Equity jurisdiction—Estate exceeding £500 in value—Objection to jurisdiction taken at trial—Duty of judge—County Courts Act, 1888 (51 & 52 Vict. c. 43), ss. 67, 68, 114.*—In an action brought on the equity side of the county court, if objection be taken on behalf of the defendant that the jurisdiction of the Court is ousted by reason of the fact that the estate involved exceeds in amount or value the sum of £500, and that fact is disputed, it is the duty of the Judge, upon evidence given before him, to arrive at a judicial determination of this question, and if it appears that the estate exceeds in value £500, he should make an order under section 68 of the County Courts Act, 1888, transferring the action to the Chancery Division. If it is apparent, on the face of the proceedings, that the Court has no jurisdiction by reason of the estate exceeding in value the prescribed sum, he should make an order striking out the action under section 114 of the Act.—*SUNDERLAND v. GLOVER*, K.B.D., 91; 1915, 1 K. B. 393.

See also Appeal.

CRIMINAL LAW:—

1. *Appeal—Special verdict of guilty but insane—Right of appeal on case stated—Crown Cases Act, 1848 (11 & 12 Vict. c. 78)—Criminal Appeal Act, 1907 (7 Ed. 7, c. 23).*—The Court of Criminal Appeal has no jurisdiction to entertain an appeal on a case stated under the Crown Cases Act, 1848, by a person whose trial has resulted in a special verdict of "Guilty, but insane," under the Trial of Lunatics Act, 1883 (46 & 47 Vict. c. 38).

Felstead v. Rex (58 SOLICITORS' JOURNAL, 534) followed.—*REX v. HENRY TAYLOR*, C.C.A., 530; 1915, 2 K. B. 709.

2. *Attempt to obtain money by false pretences—Distinction between preparation to commit a crime and attempt to commit a crime—Proper test.*—A jeweller, who was insured against burglary and theft with Lloyd's underwriters, was found by the police in his shop bound. He stated that he had been assaulted and robbed; the safe, which he said he had locked, was found to be open and empty. Subsequently his jewellery was found by the police concealed on his premises, and he then admitted that he had invented the story of the robbery to enable him to make a fraudulent claim on the underwriters under his insurance policy. He was indicted for attempting to obtain money by false pretences, and convicted.

Held, that the conviction must be quashed; what the appellant had done was preparation for the commission of a crime, and not an attempt to commit the crime, since there had been no communication between the appellant and the underwriters or any agent acting on their behalf. The police-officer could not be regarded as an agent of the underwriters. It was an act remotely leading to the commission of an offence, and not an act immediately connected with it.

R. v. Eagleton (24 L. J. M. C. 158) approved and followed.—*REX v. ROBINSON*, C.C.A., 366; 1915, 2 K. B. 342.

3. *Feloniously receiving stolen property—Possession of property recently stolen—Explanation given by prisoner—Onus of proof—Proper direction to jury—Criminal Appeal Act, 1907 (7 Ed. 7, c. 23), s. 4, proviso.*—Where a prisoner is charged with receiving stolen goods knowing them to have been stolen, and has been proved to have been in the possession of the goods which had been recently stolen, the proper direction to the jury is that they may, but not must, in the absence of any reasonable explanation, find him guilty. If an explanation is given which may be true, it is for the jury to say on the whole evidence whether he is guilty or not. If the jury think that the explanation may reasonably be true, though not convinced that it is true, the prisoner is entitled to be acquitted, since the Crown has in that case not discharged the onus of proof, which never changes, but always rests on the prosecution.

The appellants were convicted of receiving stolen property knowing it to have been stolen. They were proved to have been in the possession of property which had been stolen two hours previously, but gave an explanation of their possession.

Held, that the convictions must be quashed, as the Judge had misdirected the jury in such a way as to lead them to think that, once the appellants were proved to be in possession of the property, the burden of proof rested upon them of proving their explanation to be true; and that as the Court could not say that the jury must have convicted the appellants if properly directed, it was not possible to say that there had been no miscarriage of justice.—*REX v. SCHAMA*, C.C.A., 288.

4. *Fraudulent conversion—Property entrusted for specific purpose—Property received on account of another—Property entrusted to and*

received by a company—Converted by person controlling and directing company—Larceny Act, 1901 (1 Ed. 7, c. 10), s. 1.—A person who directs and controls the affairs of a company is guilty of an offence under the Larceny Act, 1901, s. 1, if he fraudulently converts money entrusted to the company for a specific purpose, although the sender never intended to entrust the money to him, and did not even know of his existence. If the accused has obtained or assumed the control of the property of another person under circumstances whereby he becomes entrusted, or whereby his receipt becomes a receipt, for or on account of another person, and fraudulently converts it or the proceeds, he has committed an offence within the section, whether the property was converted to the use and benefit of the company or to his own use and benefit.—*REX v. GRUB*, C.C.A., 547; 1915, 2 K. B. 683.

5. *Incorrigible rogue—Sentence by quarter sessions—Vagrancy Act, 1824 (5 Geo. 4, c. 83).*—The appellant was convicted by a petty sessional court of being a rogue and a vagabond within section 4 of the Vagrancy Act, 1824, and the Court also found that he had been previously convicted of being a rogue and vagabond, but did not convict him of being an incorrigible rogue; he was ordered to be sent to quarter sessions for sentence. The Court of Quarter Sessions adjudged the appellant to be an incorrigible rogue, and sentenced him to eleven months' imprisonment with hard labour.

Held, that the Court of Quarter Sessions had no jurisdiction to adjudge him to be an incorrigible rogue, nor, in the absence of conviction at petty sessions as an incorrigible rogue, to impose any sentence.—*REX v. EVANS*, C.C.A., 496; 1915, 2 K. B. 762.

6. *Irregularity of trial—Absence of a jurymen when jury had retired to consider their verdict—No evidence that prisoner was prejudiced thereby.*—If a juror, after the Judge has summed up in a criminal trial, separates himself from his colleagues, and, not being under the control of the Court, converses, or is in a position to converse, with other persons, it is an irregularity which renders the whole proceedings abortive, and it is not necessary to consider whether the irregularity has in fact prejudiced the prisoner. The only course open to the Court is to discharge the jury and commence the proceedings afresh.—*REX v. KETTERIDGE*, C.C.A., 163; 1915, 1 K. B. 467.

7. *Murder—Defence of accident raised—Evidence of provocation sufficient to justify verdict of manslaughter—Duty of Judge to direct jury on that point—Criminal Appeal Act, 1907 (7 Ed. 7, c. 23), s. 5 (2).*—On a trial for murder, where there is evidence of such provocation as would entitle the jury, if so minded, to return a verdict of manslaughter, it is the duty of the Judge to direct them on the point, even if that is not the defence raised on behalf of the prisoner. On his failure to do so the Court has power under section 5 (2) of the Criminal Appeal Act to substitute a verdict of manslaughter for that of murder.—*REX v. HOPFER*, C.C.A., 478; 1915, 2 K. B. 431.

8. *Obtaining money by false pretences—Attempt—Prosecutor not misled.*—On a charge of attempting to obtain money or property by false pretences it is not necessary to prove that the prosecutor has been misled by the false pretences made.—*REX v. LIGHT*, C.C.A., 351.

9. *Trading with the enemy—Consent of Attorney General to institution of prosecution—Proof of such consent—Trading with the Enemy Act, 1914 (4 & 5 Geo. 5, c. 87).*—In the absence of any objection on behalf of the prisoner, the consent of the Attorney-General to the institution of a prosecution under section 1 of the Trading with the Enemy Act, 1914, which is required by section 1 (4), will be presumed.

Rex v. Waller (54 SOLICITORS' JOURNAL, 164; 1910, 1 K. B. 364) applied.—*REX v. METZ*, C.C.A., 457.

10. *Trading with the enemy—Obtaining goods, wares and merchandise—Property of the defendant—Whether within the Act if not obtained by way of trade—Trading with the Enemy Proclamations—Trading with the Enemy Act, 1914 (4 & 5 Geo. 5, c. 87).*—O., a lithographic printer, resident in this country, under business arrangements made between him and a firm in Germany was entitled, when war was declared between England and Germany, to be supplied by the firm without payment with a certain number of lithographic transfers. He made arrangements by which these transfers were sent to him in London.

Held, that as a matter of law the transfers were "goods, wares and merchandise" within the meaning of the Trading with the Enemy Proclamations of 5th August and 9th September, 1914, and that the goods were obtained from the enemy within the meaning of the Proclamations; that, therefore, it would not have been right to leave to the jury the question whether they were obtained by way of trade. The meaning of the operative words of the Proclamation, being free from ambiguity, could not be limited by reference to the recitals in the Proclamations.—*REX v. OPPENHEIMER*, C.C.A., 442; 1915, 2 K. B. 755.

CROWN:—

Royal prerogative in time of war—Defence of realm—Occupation of land by military authorities—Public safety—Compensation—Defence Act, 1842 (5 & 6 Vict. c. 94), s. 23—Defence of the Realm (Consolidation) Act, 1914 (5 Geo. 5, c. 8)—Defence of the Realm (Consolidation) Regulations, 1914, r. 2.—The Crown has the right, by virtue of the Royal prerogative, to take possession in time of war of any land and buildings thereon, where it is necessary so to do for the public safety and defence of the realm, without payment of any compensation to the owners or occupiers thereof, except such as may be awarded as an act of grace. The prerogative is not affected by the Defence Acts, 1842 to 1875, which apply to acts altogether beyond it and to times of peace as well as of war, but is confirmed by the Defence of the Realm Act, 1914. —*RE PETITION OF RIGHT OF X., C.A., 665.*

DISCOVERY:—

1. *Application for further and better affidavit of documents—Prize competition—Damages claimed for breach of contract by unsuccessful competitor—Discovery sought of coupons of prize-winners—Irrelevancy of such documents to issue raised by action—R.S.C., ord. 31, rr. 12, 13.*—In a "bullet" or word competition advertised by a weekly journal prizes were awarded to a large number of competitors. The plaintiff alleged "that the sentence she sent in was more 'clever, apt and original' than those in respect of which prizes were awarded or prizes other than the first," and she claimed damages.

The defendants, the proprietors of the journal, by their defence relied on the conditions of entry, that every "bullet" received should be carefully considered by a competent staff of qualified judges, and that the editor's decision was to be final, and they filed an affidavit of documents setting out the two issues of the journal containing respectively the rules and the list of prize-winners. They also set out the coupon and the correspondence.

The plaintiff moved for a further and better affidavit of documents, contending that inspection of the coupons for which prizes had been given was material to her case.

Held, that the documents were not relevant to the issue raised by the pleadings, and the application must be refused.—*ANGELL v. JOHN BULL, C.A., 286.*

2. *Documents—Privilege—Documents coming into existence in contemplation of litigation—Practice—R.S.C., 1883, ord. 31.*—The plaintiffs' steamship, which was insured with the defendants, ran ashore and stuck fast in the mud near Perim, in the Red Sea, on 28th October, 1913. It was impossible to get her off until after the rains in the spring, and on 30th October notice of abandonment was given the defendants. The defendants employed a salvage association to protect their interests, and cables and correspondence passed between the salvage association and their agents at Perim, which were communicated to the defendants. The writ was taken as having been issued on 30th October. The defendants, in setting out their list of documents in compliance with an order for discovery, put in Part I. cables and correspondence which passed between the salvage association and their agent at Perim up to and including 30th October, and claimed no privilege as to them, but for subsequent cables and correspondence they claimed privilege as documents relating "to the subject-matter of this litigation, and expressing or for the purpose of obtaining advice or evidence to be used in it, or for the purpose of leading to the obtaining of evidence to enable the defendants' solicitors properly to conduct the action on their behalf."

Held, that the documents in Part II. were exempt from production.

Decision of Bailhache, J., in chambers reversed.

Birmingham and Midland Motor Omnibus Co. (Limited) v. London and North-Western Railway (57 SOLICITORS' JOURNAL, 752; 1913, 3 K. B. 150) followed.—*ADAM STEAMSHIP CO. v. LONDON ASSURANCE CORPORATION, C.A., 42.*

DIVORCE:—

1. *Evidence—Cross-examination as to adultery—Evidence Further Amendment Act, 1869 (32 & 33 Vict. c. 68), s. 3.*—A respondent in a divorce suit, produced as a witness on his own behalf, in his examination-in-chief denied the truth of the charges of adultery contained in the pleadings. There was no general charge of adultery in the petition.

Held, that he was not liable to be asked, and was not bound to answer, questions in cross-examination tending to shew that he had been guilty of adultery on occasions other than those alleged in the pleadings.

Brown v. Brown and Paget (L. R. 3 P. & D. 108) distinguished.—*BROWN v. BROWN, P.D., 442; 1915, P. 83.*

2. *Judicial separation—Jurisdiction—Foreign domicile—Residence within jurisdiction—Adultery committed outside jurisdiction—Act on petition—Summons to strike out.*—On a summons to strike out an act on petition filed by a husband, praying that a petition for judicial separation presented by his wife should be dismissed, on the ground that he was neither domiciled nor resident within the jurisdiction, it appeared that the husband, who was a Spanish subject domiciled in Hamburg, had married in England and resided there with his wife for some time, afterwards going with her to Hamburg, where they had lived together for over three years. In consequence, as she alleged, of his adultery in Hamburg, the wife left the husband and came to England, where she presented a petition for judicial separation on the ground of that adultery. The petition was served on the respondent while on a temporary visit to this country.

The Court, remarking that the question on which its jurisdiction depended in such a case was whether the wife had good ground for leaving the husband, and whether she needed the protection of the Court, refused to determine that question upon an interlocutory application, and ordered that the act on petition should be heard with the wife's suit for judicial separation.

Armstrong v. Armstrong (1898, P. 178) discussed.—*RIEVA v. RIEVA, P.D., 206.*

3. *King's Proctor's intervention—Costs—Decree nisi rescinded—Petitioning wife—No separate estate—Matrimonial Causes Act, 1878, s. 2.*—When the Court on the intervention of the King's Proctor rescinds a decree nisi obtained by a wife, the Court in the exercise of the discretion conferred by section 2 of the Matrimonial Causes Act, 1878, may condemn the wife in the costs of the King's Proctor without requiring evidence that she has separate estate.—*KENNARD v. KENNARD, P.D., 630.*

4. *Maintenance—Consent order—"Until further order"—Petition for reduction—Power of Court to vary amount—Matrimonial Causes Act, 1907, s. 1 (2 a).*—The Court has power to vary and reduce a sum ordered to be paid by a husband to his wife for maintenance after a decree for dissolution of marriage, though the order was made by consent, where it was expressed to be made until further notice. The Court in such a case should take into consideration all the circumstances, including any increase in the wife's separate income. It is no reason for refusing to reduce the maintenance that the husband's income has been diminished by his having been compelled to realize and spend some of his capital.—*HALL v. HALL, C.A., 381; 1915, P. 105.*

5. *Nullity of marriage—Wilful and persistent refusal by wife to allow marriage to be consummated—No evidence of physical abnormality or incapacity—Matrimonial Causes Act, 1857 (20 & 21 Vict. c. 85), s. 22.*—The wilful and persistent refusal of marital intercourse by either party to a marriage is not a ground for a decree of nullity, except so far as it is evidence of some abnormal physical condition of such party rendering him or her incapable of consummating the marriage. In the absence of evidence from which the Court must infer physical incapacity a decree of nullity will be refused.

Dickinson v. Dickinson (58 SOLICITORS' JOURNAL, 32; 1913, P. 198) overruled.—*NAPIER v. NAPIER, C.A., 560; 1915, P. 184.*

6. *Restitution of conjugal rights—Decree—Respondent on active service abroad—Time for compliance after service—Practice.*—Where, in a suit for restitution of conjugal rights, the respondent was on active service abroad, the Court, in pronouncing a decree, directed that the decree should not be served until further order.—*MASON v. MASON, P.D., 530.*

7. *Restitution of conjugal rights—Respondent on active service abroad—Decree—Service.*—Where, in a suit for restitution of conjugal rights, the respondent was on active service abroad, the Court, in pronouncing its decree, directed that the decree should be drawn up and lie in the office, but should not be served until further directions had been applied for and had been given.—*LANG v. LANG, P.D., 561.*

8. *Separation order—Summary jurisdiction—Appeal to Divisional Court of the Probate, Divorce and Admiralty Division—Appellant admitted as a poor person—Usual order for wife's costs—Ord. 16, rr. 22, 29.*—The Court, in allowing the appeal of a husband against an order, under the Summary Jurisdiction (Married Women) Act, 1895, made the usual order that the appellant should pay the costs of the respondent wife, although the appellant had been admitted as a poor person, under ord. 16, r. 22, for the purpose of prosecuting the appeal.—*HORE v. HORE, P.D., 457.*

9. *Wife's petition—Discretion—Petitioner's adultery denied on the pleadings—Practice laid down for guidance in future cases—Matrimonial Causes Act, 1857 (20 & 21 Vict. c. 85), s. 31.*—No relief under section 31 of the Matrimonial Causes Act, 1857, will in

future be granted to any petitioner guilty of adultery unless, in his petition, he admits that he has been so guilty, and, in the prayer of the petition, asks for the exercise of the discretion of the Court in his favour.—*KING v. KING, P.D.*, 334.

DONATIO MORTIS CAUSA :—

Bonds to bearer—Locked box containing the bonds—Key handed over to the donee—Validity.—The delivery of a key by a husband to his wife of a box containing bearer bonds, which he had intimated to his bankers were for her, was held, under the circumstances of the condition of the testator's health at the time and the other attendant circumstances, to be a sufficient delivery to effectuate a *donatio mortis causa*, although it would not have been a sufficient delivery to support a gift *inter vivos*.—*RE WASSERBERG, Sargant, J.*, 176; 1915, 1 Ch. 195.

ELECTION :—

Settlement—Will—Spinster—Restraint on anticipation—Contrary intention.—The doctrine of election is not displaced by reason of the imposition of a future restraint on anticipation, and is not affected by a power being given to the trustees to modify the trust in certain future events.

Re Vardon's Trusts (28 Ch. D. 134, 31 Ch. D. 275) applied.—*RE HARGROVE, Astbury, J.*, 364; 1915, 1 Ch. 398.

EMERGENCY POWERS :—

1. *Bankruptcy—Petition—Proceeding to execution on, or otherwise to the enforcement of, any judgment—Courts (Emergency Powers) Act, 1914* (4 & 5 Geo. 5, c. 78), s. 1, sub-sections 1 and 3.—During the continuance of the present war a judgment creditor can present a bankruptcy petition founded upon his judgment debt without obtaining the leave of the Court by which judgment was given. Sub-section 1, of section 1, of the Courts (Emergency Powers) Act, 1914, does not apply to bankruptcy petitions.—*RE SILBER, C.A.*, 271; 1915, 2 K. B. 317.

2. *Company—Winding-up—Creditors' petition—No creditors opposing—Ordinary rule—Ex debito justitiae—Assets unrealizable because of the war—Courts (Emergency Powers) Act, 1914* (4 & 5 Geo. 5, c. 78).—In view of the fact that the Courts (Emergency Powers) Act, 1914 (4 & 5 Geo. 5, c. 78), s. 1, sub-section 3, expressly gives the Court power to stay proceedings on a bankruptcy petition where the debtor's inability to pay is due to circumstances attributable to the war, but the Act contains no similar provision in the case of a winding-up petition, there is no discretion in the Court by analogy to deal with a winding-up petition unopposed by creditors otherwise than by making the winding-up order to which the petitioner would be entitled *ex debito justitiae* in time of peace in such circumstances.

Re Western of Canada Oil Lands and Works Co. (1873, L. R. 17 Eq. 1) followed.

The reasoning in *Re A Company* (59 SOLICITORS' JOURNAL, 269 and 302; 1915, 1 Ch. 520), which was a case of presenting a winding-up petition, applied to the present case.—*RE GLOBE TRUST, Astbury, J.*, 529.

3. *Company—Winding-up—Petition by judgment creditor—Courts (Emergency Powers) Act, 1914* (4 & 5 Geo. 5, c. 78).—An order for compulsory winding-up is not an execution within the meaning of section 1, sub-section (1) (a), of the Courts (Emergency Powers) Act, 1914, nor are taxed costs a sum of money within the meaning of the latter part of sub-section (b) of that section to which the Act applied.—*RE WORLD OF GOLF (LIMITED), Neville, J.*, 7; 1914, 2 Ch. 566.

4. *Execution—"Execution on or enforcement of any judgment"—Judgment in King's Bench Division against company—Winding-up petition—Courts (Emergency Powers) Act 1914, (4 & 5 Geo. 5, c. 78), s. 1 (i).—Companies (Consolidation) Act, 1908* (8 Ed. 7, c. 69), ss. 129, 130.—The plaintiff in an action in the King's Bench Division recovered judgment for damages and costs. Payment not having been made, he filed a winding-up petition against the company, alleging that the company was unable to pay its debts, and that it was just and equitable that it should be wound up.

Held (reversing *Astbury, J.*), that the petition was not a proceeding to execution on or enforcement of the judgment within the Courts (Emergency Powers) Act, 1914, s. 1 (1), and that the petitioner did not therefore require to obtain the leave of the Court before advertising, or otherwise proceeding with it.—*RE A COMPANY, No. 0,022 of 1915, C.A.*, 302; 1915, 1 Ch. 520.

5. *Mortgage—Interest in arrear—Mortgagor out of the jurisdiction—Right of mortgagee to re-enter—Courts (Emergency Powers) Act, 1914.*—Where the interest upon a mortgage was in arrear and the mortgagor was in America, upon an application by the first mortgagees under the Courts (Emergency Powers) Act,

1914, which was supported by subsequent mortgagees, the Court gave the applicants leave to go into possession of the mortgaged premises.—*RE COWARD & Co., Neville, J.*, 42.

FERRY :—

Ancient ferry from point to point—New ferry—Change of circumstances—Substantial new traffic demanding new facilities—Disturbance—Right as to declaration when disturbance not proved.—The plaintiffs (who were the respondents to the appeal) claimed (*inter alia*) a declaration that they were entitled to a certain ancient point-to-point ferry, and an injunction restraining the defendants from working a ferry some quarter of a mile lower down, which they alleged was a disturbance of their ancient ferry franchise. Warrington, J., held that the plaintiffs were entitled to a declaration as to the franchise which they claimed, but gave judgment for the defendants on the ground that a substantially new traffic, different in character from that served by the old ferry, had sprung up, and that the defendants' ferry was started *bona fide* to meet a genuine demand on the part of the public in connection with the new traffic. The Court of Appeal (Buckley, L.J., dissenting) differed from the trial judge on the question of disturbance, and, allowing the plaintiffs' appeal on that ground, granted an injunction.

Held, after consideration, that the plaintiffs had established that the ancient ferry was a point-to-point ferry of the exclusive character claimed by them, but that the class of traffic regarded as a whole carried by the new ferry pointed to its being used for a new and different traffic from that served by the ancient ferry. The plaintiffs had failed to prove that this new traffic was a disturbance of their ferry rights or any ground for damages, and therefore it would be an undue extension of the plaintiffs' monopoly if an injunction were granted restraining the defendants from continuing to carry persons across the river as they had been doing. Accordingly the judgment of Warrington, J., was restored on the question of disturbance, but with the variation that the declaration as to the plaintiffs' title which he made should be struck out.

Decision of Court of Appeal (58 SOLICITORS' JOURNAL, 378; 1914, 1 Ch. 822) reversed.—*HAMMERTON & DYSART, H.L.*, 665.

HIGHWAY :—

1. *Bridge over railway—Maintenance—Measure of obligation—Heavy motor traffic—Railway Clauses Consolidation Act, 1845—Locomotives Act, 1861—Locomotives on Highways Act, 1896—Motor Car Act, 1903.*—A railway company interrupted a highway by the construction of a railway. The statute required the company to build and maintain a bridge to carry the highway over the railway. Subsequently, heavier traffic than at the time the bridge was built came or might come over the highway. The company affixed a notice to the bridge to the effect that the bridge was not sufficient to carry heavy traffic.

Held, that there was no further obligation on the company than to maintain the bridge, which they erected in 1867, up to the standard of the ordinary traffic of that time.—*ATTORNEY-GENERAL v. GREAT NORTHERN RAILWAY, C.A.*, 578.

2. *Highway authority—Widening street—Notice to Postmaster-General to remove pole in street as widened—Negligence of latter in doing work causing damage to third person—Liability of highway authority—New street—Telegraph Act, 1863* (26 & 27 Vict. c. 112), ss. 15, 18, 42.—*Telegraph Act, 1868* (31 & 32 Vict. c. 110), s. 2.—*Telegraph Act, 1878* (41 & 42 Vict. c. 76), s. 7.—A highway authority were engaged in widening a street by setting back the kerb of the footpath. They gave notice, not purporting to be under section 15 of the Telegraph Act, 1863, to the Postmaster-General to remove a telephone pole standing in the road, and in doing so his workmen filled up the hole negligently, whereby the plaintiff's waggon was injured.

Held, that the highway authority were liable in damages on the ground that by altering the character of the highway they were making a new street, and ought, before opening it to the public for traffic, to have seen that it was reasonably safe for the purpose.

Held, also, that the Postmaster-General was liable on the ground that he had undertaken to do the work, although not compelled to do so, and had done it negligently.—*THOMPSON v. BRADFORD CORPORATION, K.B.D.*, 495; 1915, 3 K. B. 13.

3. *Quarry—Stone sent by quarry-owner in own trucks to station—Increase of output—Alleged extraordinary traffic—Highways and Locomotives (Amendment) Act, 1878* (41 & 42 Vict. c. 77), s. 23.—*Locomotives Act, 1898* (61 & 62 Vict. c. 29), s. 12.—A highway authority claimed to recover from the owner of a quarry the apportioned expenses, as certified by their surveyor, of the costs for repairing a certain road. The plaintiffs alleged that the traffic

was extraordinary traffic, not by reasons of its character or the weight carried in any one particular truck or trucks, but by the "frequency" of the journeys made, and they relied on the dictum of Bowen, L.J., in *Hill v. Thomas* (1893, 2 Q. B., at p. 342).

Lush, J., held that, in considering whether traffic (apart from excessive weight) was or was not extraordinary, not only the character of the traffic but the way it was handled, must be regarded; that where traffic was conducted along a road adapted to it and was of a class ordinarily using the road, it was, so far as the character of the traffic was concerned, not extraordinary, but ordinary. He therefore dismissed the action on the facts.

Held, by the Court of Appeal, that the decision of this class of case was one merely of fact, and there was no reason in the present case to differ from the finding of Lush, J.—*LEDGER RURAL COUNCIL v. SOMERSET, C.A.*, 476.

4. *Sewer—Defective gully—Negligence—Combined capacity of road and sewer authority—Action for personal injuries caused by riding bicycle over defective gully—New trial.*—A lady, riding her bicycle along a road as to which the defendant borough council were both the highway and sewer authority, fell and was run over by a carriage. She alleged that the cause of the fall was the defective condition of a surface gully. Horridge, J., on the answers given to a series of questions by the jury, held that the defendants were liable, as the sewer authority, in respect of the cause of action, but not in their capacity of road authority. On appeal, without deciding the question of law on which judgment was entered for the plaintiff,

Held, that the trial of the action left material questions of fact in doubt, and the decision of Horridge, J. (1914, 2 K. B. 89, 12 L. G. R. 308, 83 L. T. K. B. 358), set aside and new trial ordered.—*MARWORTH v. BATTERSEA BOROUGH COUNCIL, C.A.*, 74; 1915, 1 K. B. 392.

See also *Bridges*.

HUSBAND AND WIFE:—

1. *Separation—Evidence—Unstamped agreement to live apart—Stamp Act, 1891, s. 14, sub-section 4.*—A written agreement between husband and wife to live separate and apart is within the Stamp Act 1891, s. 14, sub-section 4, and, if unstamped, is inadmissible in evidence to prove that the separation was by agreement.—*FENGL v. FENGL, P.D.*, 42; 1914, P. 274.

2. *Separation—Summary jurisdiction—Appeal to Divisional Court of the Probate, Divorce and Admiralty Division—Offences Against the Person Act, 1861 (24 & 25 Vict. c. 100), s. 43—Summary Jurisdiction (Married Women) Act, 1895 (58 & 59 Vict. c. 39), s. 8.*—Where, a husband having been convicted of an aggravated assault upon his wife within the Offences Against the Person Act, 1861, s. 43, a separation order is made by the justices upon a summons issued by the wife under the Summary Jurisdiction (Married Women) Act, 1895, s. 8, and made returnable immediately upon such conviction, an appeal against the granting of the separation order lies to a Divisional Court of the Probate, Divorce and Admiralty Division, but that Court has no power to quash the conviction.—*BRYANT v. BRYANT, P.D.*, 75; 1914, P. 277.

See also *Bill of Sale, Settlement*.

INFANT:—

Contract—Tort—Negligence—Liability of infant.—An infant receiving an allowance of £80 a year hired a motor-car to drive to a place six miles away to fetch his bag. The infant, after arriving at his destination, drove a friend twelve miles farther on, in the course of which additional journey the car was damaged without any negligence on the part of the infant. In an action against the infant for damages for the wrongful use of the car,

Held, that nothing done by the infant rendered him liable as an independent tort-feasor.—*FAWCETT v. SMETHURST, K.B.D.*, 220.

INSURANCE:—

1. *Debentures—Liquidation of guarantee society—Reinsurance—Debenture holder's rights of indemnity—Fiduciary relationship.*—Where certain assets of a brewery company were mortgaged to a guarantee society as trustees for the debenture-holders, and the guarantee society reinsured the debentures with other companies, on an application by the debenture-holders for a declaration that they were entitled to the benefit of all the reinsurances,

Held, that the society were under no fiduciary relation to the debenture-holders in respect of the money resulting from the reinsurances, and that it accordingly formed part of the general assets of the society.—*RE LAW GUARANTEE TRUST AND ACCIDENT SOCIETY, Neville, J.*, 234; 1915, 1 Ch. 340.

2. *Fire—Construction of clauses—Arbitration—Condition precedent to action—Dispute as to amount—Subsequent denial of all liability on allegation of fraud—Claim on total loss—Right to maintain action.*—The appellant took out a fire policy with the respondent company, which by clause 12 provided, *inter alia*, that if a claim should be made in any respect fraudulent, or if the loss or damage should be caused by the wilful act or with the connivance of the insured, all benefits under the policy should be forfeited. Clause 17 provided that, if any difference arose as to the amount of any such loss or damage, such difference should, independently of all other questions, be referred to arbitration, and it was thereby expressly stipulated and declared that it should be a condition precedent to any right of action upon the policy that the award of such arbitrator of the amount of the loss or damage, if disputed, should first be obtained.

The defendants, after correspondence, finally repudiated a claim on the ground that the circumstances of the fire suggested arson, and an action was commenced against them in which they pleaded in defence the clauses in the policy above referred to.

At the trial before Darling, J., and a special jury, the jury found that the charge of arson had broken down, and judgment was entered for the plaintiff for the definite amount claimed. The insurance company appealed on the ground that the arbitration clause was a bar to the action, and they also alleged grounds for a new trial. The Court of Appeal disposed of the motion on the first ground only, and did not deal at all with the other points on which a new trial was asked.

Held, allowing the appeal with costs, that the judgment of Darling, J., should be restored, without prejudice to any application which the insurance company might make to restore the notice of appeal so far as it related to a new trial. The judgment of the court of first instance to be stayed for one month to enable that application to be made.—*JUREIDINI v. NATIONAL BRITISH AND IRISH MILLERS INSURANCE CO., H.L.*, 205; 1915, A. C. 499.

3. *Fire or marine—Insurance of ship against fire, including general average and salvage charges—Winding-up of insurance company—Subsequent loss of ship by fire—Valuation of policy—Assurance Companies Act, 1909 (9 Ed. 7, c. 49), ss. 1 (b), 17 and 18 (3), and Schedule 6.*—A policy insuring a ship against loss or damage by fire, including incidental salvage claims and general average charges, is not a policy of marine insurance, but one of fire insurance within the Assurance Companies Act, 1909, and if the ship is destroyed by fire after an order winding-up the insurance company is made, the owners' claim is limited to what they can recover on a valuation of the policy in accordance with section 17 and the Sixth Schedule to the Act.—*RE UNITED LONDON AND SCOTTISH INSURANCE CO., NEWPORT NAVIGATION CO.'S CLAIM, C.A.*, 529; 1915, 1 Ch. 578.

4. *Life—Industrial and provident society—Alteration of rules—Power to pay sum on death of member, proportionate to member's annual average purchases—Provision of insurance fund—"Life assurance business"—Assurance Companies Act, 1909 (6 Ed. 7, c. 49), s. 30.*—A co-operative industrial and provident society, registered under the Industrial Societies Act, 1876, by an alteration in its rules in 1911 authorized the committee to invest such sums as the society, in general meeting, should vote from time to time out of the profits to form an insurance fund, out of which payments were to be made on the deaths of members, and their husbands or wives, proportionate to the average annual purchases of the members for the last three years before his or her death. Payments were made in accordance with this scheme by the society, which had not made any deposit of funds with the Paymaster-General.

Held (Phillimore, L.J., dissenting), that the society was not unlawfully carrying on "life assurance business" in breach of the Assurance Companies Act, 1909.—*HAMPTON v. TOXTETH CO-OPERATIVE PROVIDENT SOCIETY, C.A.*, 397; 1915, 1 Ch. 721.

5. *Life—Life of father and mother—Funeral expenses—Allegation of fraud—Claim to recover back premiums—Assurance Companies Act, 1909, s. 39 (2).*—The plaintiff brought an action in the county court to recover premiums paid on two policies taken out by him with the defendant company in 1902, upon the ground that the policies had been obtained by fraud of the company's agent. The county court judge had held that the representations made about the insurable interest were false to the knowledge of the defendants, and gave judgment for the plaintiff. On appeal to the Divisional Court the appeal was dismissed. Lush, J., was of opinion that mourning expenses were expenses "incurred by reason of the death of the assured" within the meaning of section 36 (2) of the Assurance Companies Act, 1909, and that the policies being made valid by that Act, the action failed. Bray, J., considered that the statute of 1909 did not affect the rights of a plaintiff claiming the rescission of a contract obtained by fraud, as in that case the right to have them set aside accrued at once, even

though the plaintiff had not then discovered the fraud. The Court differing, the appeal was dismissed.

On appeal the Court of Appeal dismissed the appeal, agreeing with the view expressed by Bray, J.—*TORTS v. PEARL LIFE ASSURANCE CO., C.A., 73; 1915, 1 K. B. 189.*

6. *Marine—Freedom from capture—Capture by belligerents of neutral ship carrying contraband—Detention and discharge of cargo—Subsequent release without condemnation as prize—“Recovery of ship unlikely”—Marine Insurance Act, 1906 (6 Ed. 7, c. 41), s. 60 (1) and (2).*—A British ship, insured against risks of capture and other perils of war, sailed from England with a cargo of coal for Constantinople a few days before war was declared between Greece and Turkey. The Greek Government, having declared coal contraband of war, stopped the vessel in the Aegean Sea, and in the belief that the captain knew of the existence of a state of war, detained her for some time and discharged her cargo, intending to bring her before a prize court, but ultimately released her. In the meantime the owners had given notice of abandonment.

Held, that as the ultimate recovery of the ship, though uncertain, could not be said to be unlikely, the owners were not entitled to recover as for a constructive total loss. The Marine Insurance Act, 1906, has had the effect of modifying the pre-existing law in this respect, in favour of the underwriters.—*POLURRIAN STEAMSHIP CO. v. YOUNG, C.A., 285; 1915, 1 K. B. 922.*

7. *Marine—Restraint of princes—War—Cargo from Hamburg diverted by order of Admiralty—Loss—Constructive total loss.*—The plaintiffs, British subjects, insured with the defendants two cargoes shipped in British steamers at Buenos Aires for Hamburg in June and July, 1914. The cargoes were sold to a German firm on c.i.f. terms, but the ownership was to be in the plaintiffs until delivery. On 31st July, 1914, the plaintiffs took out marine insurance policies upon the cargoes, among the perils insured against being restraint of all kings, princes, and people of what nation soever. After the declaration of war with Germany the vessels were diverted to British ports, and the cargoes sold by the assured. The plaintiffs gave notice of abandonment to the underwriters, but the latter declined to accept it. In an action against the underwriters on the policies, Bailhache, J., held that there was a constructive total loss within the meaning of the policies, and such loss was due to a peril insured against as its proximate cause, and gave judgment for the plaintiffs.

Held, dismissing the appeal, Swinfen Eady, L.J., dissenting, that actual force was not necessary to constitute “restraint of princes”; that restraint might be exercised by the government of which the assured was a subject; that an executive act of the Crown in declaring or bringing war was equivalent to an Act of Parliament prohibiting intercourse with the enemy country, and amounted to a restraint, although actual force was not used; and that the Marine Insurance Act, 1906, did not alter the doctrine that constructive total loss of the goods could be proved by establishing the destruction of the contemplated adventure.

Decision of Bailhache, J. (reported 59 SOLICITORS' JOURNAL 316; 31 T. L. R. 194), affirmed.—*S. SANDAY & CO. v. BRITISH AND FOREIGN MARINE INSURANCE CO., K.B.D., 456.*

8. *Marine—Stranded vessel—Collision with pier—Necessary and prudent act—General average—Contribution.*—The master and pilot in charge of a vessel which had been stranded decided in the interests of the ship and cargo to take her into a dock with the knowledge that in so doing she would strike and damage a pier. It was found as a fact that the course adopted was a reasonable and prudent one. In an action by the owners of the ship against the cargo owners for contribution in general average in respect of the damage to ship and pier,

Held, that the items claimed represented general average sacrifice and expenditure, in respect of which there was an implied obligation on the part of the ship owner and cargo owner that such items should be borne between them.—*AUSTIN FRIARS STEAMSHIP CO. v. SPILLERS & BAKER, K.B.D., 205; 1915, 1 K. B. 833.*

9. *Married woman—Policy for benefit of children—Effect of—Married Women's Property Act, 1870 (33 & 34 Vict. c. 93), s. 10.*—On 2nd August, 1872, a married woman effected a policy of insurance on her own life for the benefit of her children. By her will she bequeathed the policy moneys to her four daughters equally. She survived her husband and died in November, 1914, leaving four daughters and five sons, all of whom were born before the date of the policy.

Held, that the testatrix had no power, under the Married Women's Property Act, 1870, s. 10, to take out a policy for the benefit of her children, and that the four daughters were entitled to the policy moneys as legatees under the will.—*RE BURGESS' POLICY, Etc., J., 546.*

10. *Sickness and accident—Exceptions—“Anything swallowed, administered or inhaled”—Assured accidentally suffocated by gas left turned on—Exception not confined to voluntary inhalation.*—A policy of sickness and accident insurance contained various exceptions, including accidental death caused by “anything swallowed, administered or inhaled.”

Held, that the word “inhaled” must not be restricted to voluntary inhalation, or inhalation while voluntarily exposed to a known risk.

Decision of Astbury, J. (*ante*, p. 333), reversed.

Cole v. Accident Insurance Co. (5 T. L. R. 736) applied.—*RE UNITED LONDON AND SCOTTISH INSURANCE CO., BROWN'S CLAIM, C.A., 529; 1915, 2 Ch. 167.*

11. *War—Goods at Antwerp—Occupation by Germans—Constructive total loss.*—A policy of insurance covered the assured “against loss of or damage to timber at Antwerp directly caused by . . . war . . . military or usurped power . . . no claim to attach thereto for delay . . . or loss of market, or for confiscation by the government of the country in which the property is situated. Antwerp was seized by the Germans, and occupied by them under their military and civil administration. The assured gave notice of abandonment, and brought an action on the policy for a total or constructive total loss.

Held, that in the absence of seizure there was no foundation for the claim.—*MITSU & CO. v. MUMFORD, K.B.D., 189; 1915, 2 K. B. 27.*

See also *Alien Enemy.*

INTERNATIONAL LAW:—

Nationality—Alleged alien enemy—Alleged right of law-abiding resident in England to King's protection—Habeas Corpus—Refusal of writ.—The applicant for a writ of *habeas corpus* was born in Germany in January, 1883, and when about fifteen years of age went to South America. In 1901 he came to England, and he said that, ever since, he had resided here with his wife, who was a Dutch lady. On the outbreak of the war he was interned as an alien enemy. In support of the application he denied that he was an alien enemy, and alleged that he had no nationality. He gave evidence that by a German statute passed in 1870 Germans, who left the territory of the Confederation and resided abroad for ten years uninterruptedly, *ipso facto* lost their nationality. Evidence was also given that by a German statute passed in 1913 a person who had lost his nationality might recover it, and, under certain conditions not applicable to the applicant, might be called upon to serve in the army. The Divisional Court refused application.

Held, without deciding whether an appeal lay to the Court of Appeal, that as the statute of 1913 showed that by returning to Germany he might claim, under certain conditions at any rate, to be repatriated, the writ had rightly been refused.—*EX PARTE WEBER, C.A., 692.*

INTERPLEADER:—

Practice—Right of claimant to rely on a title other than that which issue was directed to try—Claim to exclusive ownership by claimant—Proof of part ownership—Validity.—On an interpleader issue the claimant claimed goods seized in execution by the execution creditors as his exclusive property. The jury found that they were the property of a partnership of which he was a member. The county court judge held that he must adjudicate upon the claim as made, and gave judgment for the execution creditors. A Divisional Court was of opinion that the question was not whether the goods were the claimant's absolutely, but whether they were his as against the execution creditors, and that, under these circumstances, they were, and that he was entitled to judgment.

Held, allowing the execution creditor's appeal, that the decision of the county court judge was right.

Decision of Divisional Court (59 SOLICITORS' JOURNAL, 333; 1915, 2 K. B. 157) reversed.—*FLUDE v. GOLDBERG, C.A., 691.*

INTESTACY:—

Murder—Parricide and fratricide—Murderer also next of kin—Lunatic—Devolution.—Where a man on a trial for murdering his brother was found insane at the time when he committed the act, and was indicted also for murdering his father, but that charge was not, in the event of the finding of the jury on the former charge, proceeded with, and where the father died intestate,

Held, that there was no reason why the lunatic should not have taken a benefit under his father's will had he made a will, and accordingly that *a fortiori* he was entitled to take his proper share on his father's intestacy in the property of his father, the disposition of which was regulated by positive provisions of statute law.

The decision in *Felstead v. The Director of Public Prosecutions* (1914, A. C. 534) applied.—*RE HOUGHTON, Joyce, J.*, 562; 1915, 2 Ch. 173.

JUDGMENT:—

Writ of elegit—Registration—Appointment of receiver—Equitable interest in land—“Writ or order for the purpose of enforcing” judgment—Judgments Act, 1838 (1 & 2 Vict. c. 110), s. 13—Judgments Act, 1864 (27 & 28 Vict. c. 112), s. 1—Land Charges Registration and Searches Act, 1888 (51 & 52 Vict. c. 51), s. 5—Land Charges Act, 1900 (63 & 64 Vict. c. 26), s. 2.—A writ of elegit, when registered in the Land Registry by a judgment creditor, operates as a charge upon any interest, legal or equitable, of the judgment debtor in any land, within the Land Charges Act, 1900, s. 2.

A judgment creditor issued and registered writs of elegit against the debtor's lands and hereditaments, the whole of which were subject to legal mortgages, and subsequently obtained and registered the appointment of a receiver of the rents of the property. Between the dates of registration of the writs and of the order appointing the receiver, a tenant of the debtor, without notice of any legal process, at the debtor's request, paid him a quarter's rent in advance.

Held (Kennedy, L.J., dissenting), that such payment, after registration of the writ, was invalid as against the receiver.

Decision of Sargent, J., reversed.—*LORD ASHBURTON v. NOCTON, C.A.*, 145; 1915, 1 Ch. 274.

LANDLORD AND TENANT:—

1. *Distress—Exemption—Goods “comprised” in hire-purchase agreement—Law of Distress Amendment Act, 1908 (8 Ed. 7, c. 53), ss. 1, 4.*—B entered into an agreement with the plaintiffs to purchase certain furniture on the hire system. He paid some of the instalments and then stopped doing so. The hire purchase agreement provided that the agreement should, *ipso facto*, be terminated, and that the vendors should be entitled to retake possession of the goods, in the event of the hirer failing to pay the instalments when they become due. B having also failed to pay his rent, the defendants put in execution, and claimed the goods.

Held, that, although the plaintiffs had given notice to the hirer that the agreement had been so terminated, the goods were nevertheless “comprised” in the hire purchase agreement within section 4 of the Law of Distress Amendment Act, 1908, and were therefore distrainable.

Decision of Divisional Court (1914, 2 K. B. 132, 30 T. L. R. 244) affirmed.

Hackney Furnishing Co. v. Watts (1912, 3 K. B. 225) followed.—*JAYS FURNISHING CO. v. BRAND, C.A.*, 160; 1915, 1 K. B. 458.

2. *Under-lease—Breach of covenant—Notice of particular breach—Sufficiency of notice—Conveyancing and Law of Property Act, 1881 (44 & 45 Vict. c. 41), s. 14 (1).*—In an action to recover possession of premises, on the ground of breach of covenant by the lessee to repair, the sufficiency of the notice to repair was challenged by the lessee.

Held, that the notice, which merely set out the repairs under general headings, sufficiently specified the landlord's complaints. It gave the tenant adequate notice of what he was required to do, and it provided full and sufficient information upon which he could determine what course of action he should adopt.

Decision of Court of Appeal (reported *sub nom. Jolly v. Brown and Others*, 58 SOLICITORS' JOURNAL, 153; 1914, 2 K. B. 109) affirmed.—*FOX v. JOLLY, H.L.*, 665.

See also Lease, Moratorium.

LANDS CLAUSES ACT:—

Compulsory taking of land—Frontage strip—Purchase-money—Ascertainment of amount—Arbitration—Increased value of adjoining land—Betterment.—Where an owner of two contiguous pieces of land, forming together one building site, sells under compulsion a part of one piece, without reference to his interest in the other piece, the purchase price must be ascertained without reference to the vendor's interest in the other piece, and not by deducting the value of what is left to the vendor of the two pieces after the sale from their aggregate value immediately before the sale.

Decision of Eve, J. (59 SOLICITORS' JOURNAL, 271), affirmed.—*LONDON COUNTY COUNCIL v. SOUTH EASTERN RAILWAY, C.A.*, 508.

See also Compulsory Purchase.

LEASE:—

1. *Covenant by original lessees not to assign or sublet—Absolute covenant—Long leasehold—Covenant running with the land.*—A

covenant not to assign without the consent of the landlord runs with the land, and binds the assigns of the lessees even though “assigns” are not mentioned.

The cases of covenants to reside on premises, or to buy liquor of a particular firm, such as *Tatem v. Choplin* (2 Henry Blackstone, 133) and *White v. The Southend Hotel Co.* (1897, 1 Ch. 167) applied.

Goldstein v. Sanders (1915, W. N., p. 55) followed.

Where a sublease is for a period of seventy years, and contains an absolute covenant not to assign, and the definition therein of “lessors” includes assigns, and that of “lessees” does not, no indication of intention by the parties to it can be gathered from these last two facts, that the covenant was not to run with the land.—*RE ROBERT STEPHENSON & CO., No. 2, Sargent, J.*, 429; 1915, 1 Ch. 802.

2. *Covenant to renew—Construction—Perpetual renewal—Presumption.*—A lease for twenty-one years, made in 1824, contained a covenant by the lessors to grant a new lease for a similar term at the expiration of the first eleven years upon surrender of the existing lease and payment of a fine, and “so often as every eleven years of the said term” should expire, to renew the lease upon the same terms. The lease was surrendered and renewed from time to time. In 1912 the lessee offered to surrender the lease, but the lessors declined to renew it.

Held (affirming Joyce, J.), that, notwithstanding any presumption to the contrary, the covenant must be construed according to its plain meaning, and that, so construed, it conferred upon the lessee a perpetual right of renewal every eleven years.—*WYNN v. CONWAY CORPORATION, C.A.*, 43.

LIBEL:—

1. *Innuendo—Justification—Allegation as to character—Particulars of justification—Particulars given of events happening after date of publication.*—In an action for libel, where the plaintiff has by his innuendo pleaded that the words of the libel mean that he is a person of such a character as to be likely to do certain criminal acts, or that he would do them if he got the opportunity and the defendants plead justification, particulars of events happening within a reasonably short time after the publication of the alleged libel may be given in justification thereof.—*MAISEL v. FINANCIAL TIMES, C.A.*, 596; 1915, 3 K. B. 336.

2. *Plea of fair comment—Charging the plaintiff with a specific dishonest act and generally of being a dishonest person—Justification in meaning assigned by innuendo—What particulars are in that case admissible.*—In an action for libel the plaintiff, in his statement of claim, interpreted the libel by an innuendo, which was in substance (1) that the acts referred to him by the article were dishonestly done; and (2) that he was a man generally of dishonest character and unfit to be a director. Upon this the defendants justified, and gave particulars of other dishonest acts beside those referred to in connection with the arrest, by which they sought to establish that the plaintiff was a man of dishonest character, and unfit to be a director by reason of various things he had done or that had occurred to him. The plaintiff moved to have these particulars struck out as embarrassing.

Held, that as, by the construction which the plaintiff himself had placed upon the libel, the defendants were sued for charging generally that he (the plaintiff) was a dishonest person, they were entitled to give particulars to shew why they said that the plaintiff was a dishonest person, and the particulars objected to must therefore stand.—*MAISEL v. FINANCIAL TIMES, H.L.*, 248.

LICENSING LAW:—

Liquor—Purchase of liquor left in yard and fetched away during prohibited hours—Licensing (Consolidation) Act, 1910 (10 Ed. 7 and 1 Geo. 5, c. 24), s. 61 (1).—By an arrangement made with a customer, a licensed publican filled a bottle left by a customer with beer purchased, and placed it in the yard, at a time when the premises were lawfully open, where the customer could get it the next morning before the premises were open. The customer took the beer away the next morning during prohibited hours. The publican was summoned under section 61 (1) of the Licensing (Consolidation) Act, 1911, for opening his premises for the sale of liquor during prohibited hours, but the justices dismissed the summons.

Held (Avery, J., diss.), that, it being an express term of the contract that the bottle was to be placed in the yard at the customer's risk during the lawful hours, the justices' decision was right.—*BRISTOW v. PIPER, K.B.D.*, 178; 1915, 1 K. B. 271.

LIMITATIONS, STATUTE OF:—

Action against public body—Sale of coke by corporation—Negligent delivery—Neglect of “In execution of public duty or

authority"—Action based on tort or contract—Public Authorities Protection Act, 1893 (56 & 57 Vict. c. 61), s. 1.—Held, that under the defendants' local Act they were empowered to carry on the business of coke merchants, and the making of contracts for the sale of coke was therefore necessarily an incident to their statutory powers.

The defendants had undertaken to deliver coke to the plaintiff, and by the negligence of their servant in delivering the coke, damage had been done to the plaintiff's property. But the damage so caused was not caused to the plaintiff as a member of the public, to whom the defendants owed a statutory duty.

Held, that he was entitled to maintain his action, although not "commenced within six months next after the act, neglect or default, complained of" occurred.

Decision of Divisional Court (Bray, J., Lush, J., diss., 12 L. G. R. 148, 30 T. L. R. 181) reversed.—MYERS v. BRADFORD CORPORATION, C.A., 57; 1915, 1 K. B. 417.

LOCAL GOVERNMENT:—

1. *Buildings—Part of old building pulled down—New part erected—Bye-laws as to new building—Public Health Acts Amendment Act, 1907, s. 23.*—The bye laws of a local authority made in 1906 provided that every person who intended to erect a building should give notice in writing of such intention and deliver complete plans and sections of every floor.

Section 23 of the Public Health Acts Amendment Act, 1907, provides that "For the purposes of this Act and the Public Health Acts, and any bye-laws made thereunder, (a) the re-erection wholly or partially of any building of which an outer wall is pulled down to within ten feet of the surface . . . shall be deemed the erection of a new building."

The appellants pulled down part of a very old inn, including certain outer walls, but left the rest standing. They gave notice in writing to the local authority of their intention to erect a new part on the site of the old part pulled down. This new part was to fit into the part left standing. With the notice, plans and sections of the new part were sent, but not of the whole of the building—i.e., the part left standing and the new part. The local authority admitted that if the portion of the old building left standing was not, and should not be treated as part of, a new building, bye-law 104 had been complied with by the building owners; but on the decision of *Leonard v. Hoare & Co. (Limited)* (1914, 2 K. B. 798), in which it was held that the present appellants were erecting what must be deemed a new building, they refused to pass the plans. Thereupon a rule nisi for a mandamus was obtained.

Held, that, upon the true construction of section 23 of the Act of 1907, only such part of a building as has been pulled down to be re-erected was to be deemed a new building, and as in that view the appellants had conformed to the bye-laws the rule must be made absolute.—*REX v. FOOTS CRAY URBAN COUNCIL*, C.A., 597.

2. *Contract for sewage works—Arbitration clause as to any question, dispute or difference—Claim by contractor during progress of the works to rescind contract—Allegation that he was induced to enter into the contract by fraud—Action for declaration that contract was void—Application to stay action under arbitration clause.*—The defendants, a local authority, entered into a contract with the plaintiff to execute certain sewage works. The works were commenced, when the plaintiff alleged that he had been induced to enter into the contract by misrepresentation, and he commenced an action for a declaration that the contract was void, an injunction, and damages.

Held, that the action was maintainable, as the arbitration clause referred to questions of dispute or difference between the parties arising out of the execution of the contract, and gave no jurisdiction to an arbitrator to decide the issue raised in the action.—*MUNRO v. BOGNOR URBAN COUNCIL*, C.A., 348; 1915, 3 K. B. 167.

3. *Paving expenses—Charge on property for—Inquiry as to incumbrances—Neglect to answer the inquiry—Contempt of court—Attachment—Costs.*—Where an order has been obtained by a local authority giving them a charge in priority to other incumbrances on property adjoining a road for their costs of paving such road, and directing an inquiry as to incumbrances, and the sole partner of the defendant company neglects to obey an order that he should answer such inquiry on affidavit, and a subsequent order that he should attend for examination,

Held, on a motion to attach him, that an order for attachment must be made, and the costs of, and incidental to, the motion were directed to be added to the charge.—*TOTTENHAM DISTRICT COUNCIL v. NIELSON*, *Neville, J.*, 667.

4. *Premises unfit for habitation—Closing order—Service of order*

on lessee—Freeholder not known—Service of order on freeholder by leaving order with the inmate of the premises—Sufficiency of service—Housing of the Working Classes Act, 1890 (53 & 54 Vict. c. 70), s. 49—Housing, Town Planning Act, 1909 (9 Ed. 7, c. 44), s. 17, sub-section 3.—Where the defendant council made all the usual inquiries, but were unable to discover the owner of the freehold, and accordingly served a sealed copy of a closing order addressed to the owner of the premises by leaving it with a woman who was in occupation thereof,

Held, that such service was sufficient, and that for the purposes of section 17, sub-section 3, of the Housing, Town Planning Act, 1909, it was not necessary that the order should be served personally.—*ARLIDGE v. HAMPESTEAD URBAN COUNCIL*, *Neville, J.*, 717.

5. *Public health—Baths and washhouses—Borough council—Power to let during winter months as an empty building—Occasional user—Conversion into cinematograph theatre—Baths and Washhouses Act, 1878 (41 & 42 Vict. c. 14), s. 5—Baths and Washhouses Act, 1896 (59 & 60 Vict. c. 59), s. 2.*—It is not competent under the Baths and Washhouses Acts, 1846 to 1899, for a local authority to let their closed swimming bath for the winter months as a cinematograph theatre, open every evening, with music provided as an essential part of the entertainment. Whether or not such a letting is for the purposes of "healthful recreation" within section 5 of the Baths and Washhouses Act, 1878, it is one which requires a music licence, and, that being so does not comply with the conditions contained in the Baths and Washhouses Act, 1896, s. 2, that the bath shall only be let for such an entertainment occasionally, and that no money shall be taken at the doors.—*ATTORNEY-GENERAL v. SHOREDITCH BOROUGH COUNCIL*, C.A., 439; 1915, 2 Ch. 154.

6. *Sewer—"Single private drain"—Several houses belonging to one owner—Pipe receiving drainage connected with public sewer—Cul-de-sac—Highway—Dedication to public—Powers of railway company to dedicate—Kingston-upon-Hull Corporation Act, 1903 (3 Ed. 7, c. cxlvi.), s. 49—Public Health Act, 1875 (38 & 39 Vict. c. 55), ss. 4, 13, and 41—Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59), s. 19.*—A covered conduit tapping only surface water and slops, and not sewerage, from two rows of cottages, and running down a cul-de-sac into a sewer under a highway, is a "single private drain," and not a sewer within the meaning of section 49 of the Kingston-upon-Hull Corporation Act, 1903, extending section 19 of the Public Health Amendment Act, 1890, and is accordingly repairable by the owners of the property on which the cottages stand and over which the cul-de-sac runs.—*KINGSTON-UPON-HULL v. NORTH EASTERN RAILWAY*, *Sargant, J.*, 318; 1915, 1 Ch. 456.

LONDON:—

1. *Management—London street widening—Power to take part of a house—Michael Angelo Taylor's Act, 1817 (57 Geo. 3, c. 29), ss. 80 and 82.*—An injunction was granted to the freeholders of a certain restaurant to restrain the local body from proceeding under a notice to treat under Michael Angelo Taylor's Act, 1817, by taking the front portion only of the restaurant, although the tenant was willing to reface the front, but was unwilling that they should take the whole, since the taking of the part suggested would tend to destroy the identity of the premises.—*BEYFUS v. WESTMINSTER CITY*, *Sargant, J.*, 129.

2. *Street—General line of buildings—Buildings erected on forecourts beyond general line as defined by Local Act—Power of Metropolitan Board of Works to vary general line by resolution—Absence of superintending architect's certificate—Estoppel—7 Geo. 4, c. cxiii., s. 140—Metropolis Management Act, 1862 (25 & 26 Vict. c. 102), ss. 75, 76—London Building Act, 1894 (57 & 58 Vict. c. cxviii.), ss. 22, 25, 27, 215, 216.*—The respondents were owners of premises on the north side of the Euston-road, a road laid out under a local Act (29 Geo. 2, c. 88), passed in the year 1756, which enacted that no building should be erected on new foundations in the road within 50 ft. of the highway, and that any buildings, if so erected, should be deemed common nuisances. The provisions of the Act were renewed from time to time, and in 1862 it was provided, by section 75 of the Metropolis Management Act, that no building should, without the consent in writing of the Metropolitan Board of Works, be erected beyond the general line of buildings, if the distance of that line from the highway did not exceed 50 ft. Before 1862 an almost continuous row of buildings had been erected about 50 ft. back from the highway, and another row of buildings had been erected upon the forecourts, the frontage-line of such new buildings adjoining the footway, and being only 11 ft. from the kerb. In 1867 the Metropolitan Board of Works passed a resolution in order to obtain uniformity in the buildings in this part of the road, enabling all persons interested to build up to that frontage without restriction as to height, but no certificate was given by their superintending architect that the 11 ft. line

was the general line of buildings. The superintending architect of the London County Council had recently certified that the building line was the old 50 ft. line.

Held, that the sanction given by the local authority in 1867 was invalid, and that it was now competent for the London County Council to disregard what had been thus authorized and approved as the general building line; that the building line was still the original line as defined in the certificate of their superintending architect, and that such houses as had been erected in front of that line could be disregarded, and were liable to be treated as common nuisances.

Decision of Divisional Court (Lush, J., dissenting) (reported 108, L. T. 110, 11 L. G. R. 410) restored.—LONDON COUNTY COUNCIL v. CLODE, *H.L.*, 628.

See also Rating.

MAINTENANCE:—

Settlement—Infants contingently entitled—Delegation of power—Appointed share—Powers of trustees—An attempt by the donee to delegate to trustees a discretionary power of maintenance and education is wholly inoperative.

Semble, the provisions for maintenance and education, and for advancement usually inserted in settlements, do not in general apply to an appointed share, such a share being by the appointment withdrawn from the general operation of the settlement.—RE GREENSLADE, *Eve, J.*, 105; 1915, 1 Ch. 155.

MALICIOUS PROSECUTION:—

Damage sufficient to support action—Summary proceedings to enforce abatement of nuisance—Damage to defendant's fair fame—Public Health Act, 1875 (38 & 39 Vict. c. 55), ss. 91-96.—The occupier of certain premises was served by the sanitary inspector with notice to abate a nuisance, and, as the notice was ignored, the inspector preferred a complaint before justices under section 95 (1) of the Public Health Act, 1875. The justices dismissed the complaint and allowed the defendant five guineas costs.

In an action by the occupier, claiming damages for malicious prosecution from the inspector and his district council,

Held, that the issuing of such a complaint did not necessarily involve damage to the defendant's fair fame sufficient to support an action, in the absence of evidence that the complaint had been preferred maliciously and without reasonable and probable cause.

Decision of Horridge, J. (1914, 2 K. B. 5, 13 L. G. R. 407, 83 L. J. K. B. 791), reversed.

Savile v. Roberts (1699, 1 Ld. Raym. 374) followed.—WIFFEN v. BAILEY, *C.A.*, 176; 1915, 1 K. B. 600.

MARKET:—

Statutory market—Prohibition against rival markets—Exception in private Act from prohibition—"Except on any land or in any building belonging to" the owner or occupier—General Act incorporated with but varied by private Act—Exception in general Act narrower—Disturbance—Markets and Fairs Clauses Act, 1847 (10 & 11 Vict. c. 14), s. 13.—Where a section of a private Market Act provided a prohibition and penalties against persons setting up rival markets on market days, "except on any land or in any building belonging to [the owner] or in his occupation," and the private Act incorporated the Markets and Fairs Clauses Act, 1847, except when expressly varied thereby,

Held, that this section of the private Act was an express variation of the latter Act, and in substitution for section 13 thereof, where the words of exception were narrower.

Held, also, that the market, not being a franchise market, the owners were not entitled to any general protection conferred by market law wider than that conferred by their statute, the words of exemption in which exempted not only from the penalties, but from any general prohibition against the excepted acts which would otherwise be implied by the creation of a market.—HAILSHAM CATTLE MARKET CO. v. TOLMAN, *C.A.*, 493; 1915, 2 Ch. 1.

MINES:—

1. *Coal mine—Minimum wage—Claim in county court—Absence of certificate—Statutory tribunal—Right to sue—Coal Mines (Minimum Wage) Act, 1912 (2 Geo. 5, c. 2), s. 1.—A miner claimed 11s. 3d. in the county court, the difference between the minimum rate of wages and the amount actually earned by him for that week. The claim had been referred to the statutory tribunal, and decided against him, and in the county court his counsel admitted that he could not produce a certificate by the tribunal that the plaintiff was a member of the class to whom the minimum rate applied. Thereupon the summons was dismissed, and judgment was entered for the defendants.*

Held, that it was not a condition precedent to the plaintiff's

right to sue that he should have obtained a certificate that he was a workman to whom the minimum rate of wages was applicable.

Randle v. Clay Cross Co. (Limited) (1914, 3 K. B. 795) not followed.—BARWELL v. NEWPORT, &c., COAL CO., *C.A.*, 233; 1915, 2 K. B. 256.

2. *Right to work so as to let down surface—Reservation to grantor—Construction of deed—Right of surface owner to support negated by necessary implication.—By a conveyance on sale of land the vendor reserved to himself, his heirs and assigns, all the mines and minerals, with a right to enter on the land and to work and to carry away the same "in as full and ample a manner as if these presents had not been executed."*

Held, that the owners of the mines and minerals had by necessary implication from the words of the deed a right to let if these presents down the surface.

Decision of Eve, J., affirmed.—BEARD v. MOIRA COLLIERY, *C.A.*, 103; 1915, 1 Ch. 257.

See also Revenue.

MISTAKE:—

Payment of money—Mistake of fact—Payment under protest—Liability.—In an action by a stall holder in a market to recover tolls alleged to have been paid under protest and mistake of fact, or either,

Held, that money paid under a threatened seizure of the plaintiff's goods could be recovered back from the payee where there was no legal obligation on the plaintiff to make the payment, and the circumstances shewed that the money was paid by the plaintiff in order to close the transactions.

Decision of Rowlatt, J. (reported 58 SOLICITORS' JOURNAL, 381), reversed.—MASKELL v. HORNER, *C.A.*, 429; 1915, 3 K. B. 106.

MONEY-LENDER:—

Excessive interest—Harsh and unconscionable transaction—Questions for judge and not for jury—Account referred to registrar—Basis of account—Note not taken by county court judge.—Certificate—Materials for decision on appeal—Money-lenders Act, 1900 (63 & 64 Vict. c. 51), s. 1, sub-section 1.—R.S.C., ord. 59, r. 8.—By section 1, sub-section 1, of the Money-lenders Act, 1900, where proceedings are taken in any Court by a money-lender for the recovery of any money lent, or the enforcement of any agreement or security made or taken in respect of money lent, and there is evidence which satisfies the Court that the interest charged in respect of the sum actually lent is excessive, or that the amounts charged for expenses, &c., are excessive, and that in either case the transaction is harsh and unconscionable, the Court may reopen the transaction and take an account between the parties and relieve the party sued as therein mentioned.

Held, that the questions whether the interest charged is excessive, and whether the transaction is harsh and unconscionable, are for the judge, and not for the jury, though these questions may partly depend upon facts to be ascertained by the jury.

Decision of Divisional Court (1914, 2 K. B. 372) affirmed.—ABRAHAM v. DIMMOCK, *C.A.*, 188; 1915, 1 K. B. 662.

MORATORIUM:—

1. *Company—Partly paid shares—Calls—Default of payment—Forfeiture of shares—Injunction—Court (Emergency Powers) Act, 1914, s. 1 (1).—Where a company passed a resolution for forfeiture of shares for non-payment of calls due in August and October in accordance with powers given them under their articles of association,*

Held, that such resolution was void because the calls were within the scope of the moratorium, and accordingly no debt was due when the resolution was passed, and because such a forfeiture was an attempt to take possession of property in default of payment without the leave of the Court, and was accordingly contrary to the provisions of the Courts (Emergency Powers) Act.—BURGESS v. O.H.N. GASES (LIMITED), *Neville, J.*, 90.

2. *Contract—Goods sold and delivered—Claim amounting in the aggregate to over £5—"Liability which, when incurred, did not exceed £5"—Moratorium Proclamations of August 6th and September 3rd, 1914—Postponement of Payments Act, 1914 (4 & 5 Geo. 5, c. 11), s. 1.—By certain Moratorium Proclamations made under powers given by the Postponement of Payments Act, 1914, no debt was enforceable which was contracted before the period that the moratorium was in force, if the liability when incurred in respect of which the claim was made exceeded £5 in amount. The plaintiffs, between January and July, 1914, supplied goods to order of the defendants. With a few exceptions these orders were for less than £5. In the aggregate, however (including six orders over*

£5 each), they amounted to £61 9s. 8d. The writ was a claim for that sum, and was issued on the 5th of September, 1914.

The master and the Judge held that the "liability incurred" by the defendants was not in respect of each item *seriatim*, but was increased by each delivery, and that the writ being a claim for a sum exceeding £5, the action was stayed during the operations of the moratorium. The plaintiffs appealed.

Held, that the action could be maintained; the question whether judgment could be entered in respect of the six items above £5 each was a question that could be raised by the defendants at the trial.—*AUSTER v. LONDON MOTOR COACH WORKS, C.A.*, 24.

3. *Landlord and tenant—Non-payment of rent—Right of re-entry—Moratorium—Postponement of Payments Act, 1914* (4 & 5 Geo. 5, c. 11), s. 1 (1).—Where by the Postponement of Payments Act, 1914, and the Proclamation thereunder, a tenant is excused the payment of rent until a date fixed by the Proclamation, the landlord cannot, during the period of the moratorium, sue for recovery of possession, as his right of re-entry is gone.—*DURRELL v. GREAD, K.B.D.*, 7.

4. *Promissory note—Writ—Suspension of remedy—Termination of moratorium—Right to recover.*—A writ was issued in an action to recover money due under a promissory note. After the issue of the writ the moratorium temporarily suspended the plaintiff's remedy, but at the date of the trial of the action the moratorium had ceased to apply.

Held, that the plaintiff was entitled to recover the amount claimed.—*GLASKIE v. PETRY, K.B.D.*, 92.

See also Bankruptcy.

MORTGAGE:—

Expectant share as one of next of kin of living person—Assignment of interest by way of mortgage to defendants—Bankruptcy and discharge of mortgagor before falling into possession of share—Defendants take no part in the bankruptcy proceedings—Assignment by mortgagor after obtaining his discharge to plaintiffs—Priority of defendants' mortgages to plaintiffs' claim.—A special case raised the question whether certain dealings by one H. L. with his expectant share as one of the next of kin of a living person were rendered inoperative by his bankruptcy, and the order of discharge therein, happening while the person in question was still living.

Held, that mortgages he had given prior to his bankruptcy to an insurance society and to one A. (neither of whom proved in the bankruptcy) were not thereby rendered inoperative, and that both were entitled to rank in priority to the plaintiffs, to whom, subsequently to his bankruptcy and discharge, he had mortgaged his interest.

Decision of Warrington, J. (1915, 1 Ch. 744), affirmed, and *Collyer v. Isaacs* (1881, 19 Ch. D. 342) considered and distinguished.—*RE LIND, C.A.*, 351.

See also Emergency Powers, Prize Law.

NATIONAL INSURANCE:—

Doctor on panel—Fees in hands of insurance committee—Garnishee order—Debt for amount to be ascertained—Whether attachable.—Where an insurance committee under the National Insurance Act, 1911, has received from the National Insurance Commissioners funds for distribution among the doctors on the panel, there is a debt owing from the insurance committee to each of the doctors who have served during the period to which the fund applies for a sum to be ascertained, and such debt may be attached.

Decision of Rowlatt, J. (31 T. L. R. 103), affirmed.—*O'DRISCOLL v. MANCHESTER INSURANCE COMMITTEE, C.A.*, 597.

PATENT:—

Infringement—Defence alleging manufacture by named firms chiefly outside the United Kingdom—Application for discovery by defendants—Allegation of no prima facie case—"Fishing" in inquiry—Practice—Patents and Designs Act, 1907 (7 Ed. 7, c. 29), ss. 25 (2) (b) and 27—*Rules of the Supreme Court, 1883*, ord. 31, r. 12.—Discovery cannot be resisted by the plaintiff, after the issues have been defined by the defence, on the ground that a *prima facie* case for defence has not been made out.

Thermos (Limited) v. Isola (27 R. P. C. 195) explained.—*BRITISH THOMSON-HOUSTON CO. v. DURAM, Neville, J.*, 160; 1915, 1 Ch. 823.

PERPETUITY:—

Settlement—Limitation to children who attain twenty-five—Gift-over if no children attain twenty-five—Life interests to persons

in ease—*Validity of gift-over.*—Where trusts which are void for remoteness are followed by a trust for a living person for her life, the trust for the living person for her life is void.

Re Thatcher's Trusts (26 Beav. 365) applied.—*RE HEWETT'S SETTLEMENT, Astbury, J.*, 476; 1915, 1 Ch. 810.

PORT OF LONDON:—

Port Rates—Exemption—Goods imported for transshipment only—Goods exported "coastwise"—Transshipment in Port of London for Rochester—Conveyance "by sea only"—Port of London Act, 1908 (8 Ed. 7, c. 68), s. 13—*Port of London (Port Rates on Goods) Provisional Order Act, 1910* (10 Ed. 7 and 1 Geo. 5, c. c.), s. 9, Schedule.—By section 13, sub-section (1), of the Port of London Act, 1908, "all goods imported from parts beyond the seas or coastwise into the Port of London or exported to parts beyond the seas or coastwise from that port" shall be liable to port rates; and by sub-section 5 for the purpose of this section "goods shall not be treated as having been imported or exported coastwise unless imported from or exported to a place seaward of a line drawn from Reculvers Towers to Colne Point." By section 9 of the Provisional Order, confirmed by the Port of London (Port Rates on Goods) Provisional Order Act, 1910, and contained in the Schedule to that Act, "no port rates shall be charged by the authority on transshipment goods, which expression, wherever used in this order, means and includes goods imported for transshipment only"; and for the purposes of this section the expression "goods imported for transshipment only" shall mean goods imported from beyond the seas or coastwise for the purpose of being conveyed by sea only to any other port, whether beyond the seas or coastwise."

Held (after consideration), that goods brought by sea to this country and discharged at the Port of London, and there transhipped into a sailing barge for conveyance to Rochester, which is inside the above line, were not liable to port dues at the Port of London, as the expression "coastwise" in section 9 of the Provisional Order was used in its ordinary sense, unaffected by the meaning attached to the words "goods imported or exported coastwise" in section 13, sub-section 5, of the Act of 1908; and that the conveyance of the goods in question to Rochester was a conveyance "by sea only" to another port "coastwise" within the meaning of section 9; and therefore the company were entitled to get back moneys paid under protest for charges claimed by the collector of the Port of London Authority.

Decision of Court of Appeal (Buckley, L.J., dissenting) (1914, 3 K. B. 1201, 111, L. T. R. 1019, 19 Com. Cas. 420) affirmed.—*PORT OF LONDON AUTHORITY v. BRITISH OIL AND CAKE MILLS, H.L.*, 577.

POWER OF APPOINTMENT:—

Power to wife to appoint by will during coverture—Will made during husband's lifetime—Death after expiration of coverture—Validity of appointment.—Where in a marriage settlement there was a power to the wife to appoint "by will during the continuance of the said intended coverture" and the wife made a will purporting to exercise the power during the lifetime of her husband and survived him,

Held, that such was a good and valid appointment, there being no authority making it necessary to supply an implied condition that the testatrix should die during the coverture.—*RE SAFFORD, Joyce, J.*, 696; 1915, 2 Ch. 211.

See also Maintenance, Settlement, Trustee.

PRACTICE:—

1. *Action in this country for declaration of rights to assist action in foreign country—R.S.C., ord. 25, r. 5; ord. 54a, r. 1.*—An action may be brought asking for a declaration of rights, notwithstanding that the party seeking the declaration is not, or will not be, plaintiff in some action for which the declaration is desired.

The Manar (1903, P. 95) followed.—*GUARANTY TRUST CO. OF NEW YORK v. HANNAY, K.B.D.*, 302; 1915, 2 K. B. 536.

2. *Certiorari—Six months' limit of time—Fiat of Attorney-General—Crown Office Rules, 1906*, rr. 20, 21.—Rule 21 of the Crown Office Rules, 1906, provides that "no writ of certiorari shall be granted, issued or allowed . . . unless the writ be applied for within six calendar months next after such judgment, order, conviction or other proceeding shall be so had or made."

Held, that this provision did not apply to the issue of a writ of certiorari at the instance of the Attorney-General on behalf of the Crown.

Decision of Divisional Court (1914, 3 K. B. 222, 83 L. J. K. B. 1398, 30 T. L. R. 543) reversed.—*REX v. AMENDT, C.A.*, 363; 1915, 2 K. B. 593.

3. *New trial—Breach of promise—Discovery of new evidence—Issue raised thereby not raised at trial—“Mistake, surprise, fraud”—New trial as to single issue.*—A plaintiff, who in the pleadings was described as a spinster, recovered damages for breach of promise. Nearly a year afterwards the defendant obtained leave to adduce further evidence to shew, in support of his application for a new trial, that facts had come to his knowledge which, if proved, established that the plaintiff, at the time of the action, was a married woman, and that her husband was still alive.

Held, Pickford, L.J., dissenting, that there must be a new trial on the single issue whether the plaintiff was a married woman.—*ROBINSON v. SMITH, C.A.*, 269; 1915, 1 K. B. 711.

4. *Notice of motion—Time between service and hearing—Two clear days—Sunday—Notice of motion for attachment—Ground of application—Service of order to pay with notice of motion only—R.S.C., ord. 52, r. 5; ord. 64, r. 2.*—The natural meaning of ord. 52, r. 5, makes two clear days mean two clear working days to the exclusion of Sundays, which for the purpose of ord. 64, r. 2, must be treated as a *dies non*.

It is not a sufficient compliance with ord. 52, r. 5, to serve with a notice of motion for attachment a copy of the order of the Court appointing a receiver when there were several ways in which the order of Court might have been disobeyed by the person sought to be attached. The particular act of disobedience must be specified.

Hipkiss v. Fellows (101 L. T. Rep. 701) followed.—*BRAMMALL v. MUTUAL INDUSTRIAL CORPORATION, Astbury, J.*, 382.

5. *Staying proceedings—Administration action in Ireland—Cross action on same subject-matter in English court—Proceedings not vexatious or oppressive.*—An action having been commenced in the Irish court by an executor of a testator who died in Ireland, claiming as against persons interested under a voluntary settlement made by the testator that certain property was not included in it, but was part of his residuary estate, and asking for administration of that estate, four defendants to the action commenced a cross action in the English court for a declaration that the property in question had been effectually brought into the settlement.

Held, that the action in England was not vexatious or oppressive, and ought not therefore to be stayed until after the trial of the Irish action.—*CARTER v. HUNGERFORD, C.A.*, 428.

See also *Alien Enemy, Discovery, Contempt*.

PRINCIPAL AND AGENT:—

Company—Liquidation—Assets—Order to purchase stock—Following trust money.—Where a lady sent money to a financial firm to be invested by them in an American concern, and the stock being short, they paid her money into a special account at a bank, in the joint names of the directors of the firm, to await the time when the stock should be delivered; and subsequently a liquidator of the firm was appointed, and when the stock was delivered the bank applied the money in taking it up.

Held, that the payment into the bank was a clear method of providing for the purchase of the stock, and that the firm were trustees for the lady, who was accordingly entitled to the stock.—*RE CHAPLIN, MILNE, GRENFELL & Co., Neville, J.*, 250.

PRIZE LAW:—

1. *British ship—Cargo owned by company domiciled in England—Constitution of company—Enemy shareholders and directors—Management of company during war—Principles to be applied—Cargo claimed as prize.*—The question in prize of whether goods owned by an English company, practically all the shareholders in which are Germans and all the directors of which are German, ought to be seized as prize, is one which should be governed by principles of English municipal law, and in which no overruling principle of international law arises, and accordingly in such a case goods seized in prize must be released.

The Continental Tyre Co. (Limited) v. Daimler Co. (Limited) and Same v. Thos. Tilling (Limited) (ante, p. 232; 1915, 1 K. B. 893) followed and applied.

In view of the special nature of our merchant shipping legislation the case of the ownership of a British vessel by such a company might not be covered by this decision, so as to exempt such a vessel from seizure.

The Tonami and The Rothersand (ante, p. 26; 1914, P. 251) considered.—“*THE POONA*,” P.D., 511.

2. *British ship—Enemy goods—Interruption of voyage—Seizure and condemnation of goods—Freight—Calculation of amount to be allowed—Principle to be followed.*—Where a British ship started before the outbreak of war on a voyage from Bristol to Amsterdam, carrying goods bound for Germany which were, in fact, seized at Swansea after the outbreak of war between England and Germany,

Held, that the shipowners were entitled to such a sum for freight as is fair and reasonable in all the circumstances, regard being had (1) to the rate of freight originally agreed; (2) to the extent to which the voyage has been made; (3) to the labour and cost expended, or any special charges incurred, in respect of the cargo seized before its seizure and delivery.

No sum is to be allowed in respect of any inconvenience or delay attributable to the state of war, or to the consequent detention and seizure.—“*THE JUNO*,” P.D., 251.

3. *British steamer—Cargo sold by neutrals—Alien enemy—Stoppage in transitu—“Deemed to be insolvent”—Sale of Goods Act, 1893 (56 & 57 Vict. c. 71), ss. 44, 62, sub-section (3).*—*Semble*, the failure of an alien enemy firm to meet their acceptances given for the price of goods shipped to such alien enemy firm by a neutral in a British ship does not constitute insolvency, so as to give the neutral a right of stoppage in transitu. It is very doubtful whether the act of declining to pay an acceptance through bankers because of the outbreak of war could be interpreted as ceasing to pay debts in the ordinary course of business, so as to give the right to say that the firm could be “deemed to be insolvent” within the meaning of section 62, sub-section 3, of the Sale of Goods Act, 1893.—“*THE FELICIANA*,” P.D., 548.

4. *British ship—Goods shipped prior to the outbreak of war at a foreign port—Consigned to enemy subject at enemy port—Sale by enemy subject to neutral while in transitu—Sale completed before outbreak of war—Imminence of war.*—Goods shipped on a British ship from a foreign port prior to the outbreak of war, and consigned to persons who subsequently became enemy subjects at what became an enemy port, were sold by such persons, while in transitu, to neutrals, and the sale was completed before the outbreak of the war. The goods were still in transitu at the outbreak of war, and were seized.

Held, that war was not imminent in the sense of “threatening or about to occur” between England and Germany in the last week in July, 1914, when the sales were completed.

Held, accordingly, that the sales were valid, and the goods were not confiscable.

The Baltica (11 Moore P. C. 141) followed.—“*THE SOUTHFIELD*,” P.D., 681.

5. *British steamship in port at the outbreak of hostilities—Enemy cargo—Condemnation.*—Austrian cargo seized on a British ship in port at the outbreak of hostilities was allowed by the Procurator-General to be resold by the original vendors thereof to an English firm, on the moneys being paid into Court.

Held, that the proceeds of sale were droit of Admiralty and proper prize.

Held, also, that enemy cargo in English ships in port at the outbreak of hostilities is subject to capture as lawful prize of war.—“*THE ALDORTH*,” P.D., 75.

6. *British vessel—Shipowners' right to freight on cargo—Seizure as prize before reaching port of destination—Subsequent release.*—In the Prize Court shipowners have a right to have some freight on cargo which has been seized as prize before reaching its port of destination, but which has been subsequently released.

The Friends (Edw. 346) considered.

The quantum of freight is to be decided on the principles laid down in *The Juno* (59 SOLICITORS' JOURNAL, 251).

The Corsican Prince (59 SOLICITORS' JOURNAL, 317) affirmed.—“*THE IOLO*,” P.D., 545.

7. *Cargo destined for the enemy—Shipped before the war by neutrals—British ship—Documents not taken up by the enemy—Advances made thereon—Cargo at the risk of the enemy—Jus disponendi in the shipper—Right to seize enemy cargo in British ships in port at the outbreak of war—Declaration of Paris.*—Where all the material parts of a business transaction take place *bona fide* during time of peace, but by reason of war it becomes necessary to decide questions of property in the Prize Court, the law applied in such cases is the ordinary municipal law governing contracts of sale.

Where goods contracted to be sold are shipped during peace, they are not subject to seizure on the outbreak of war unless under the contract the property in them has passed to the enemy.

In this case the American firm had still the *jus disponendi*, the documents not having been taken up by the German buyers, and the proceeds of sale were accordingly ordered by the Court to be paid to the American firm.

Dictum that the proposition that, even if the property had been enemy property in this British ship in port at the outbreak of war, it could still not have been seized is wholly lacking in foundation.—“*THE MIRAMICHI*,” P.D., 107; 1915, P. 71.

8. *Enemy ship—American submarine apparatus—Part of the ship—Not liable to be handed over by the terms of the Declaration*

of Paris—"Neutral goods"—"Enemy goods"—French original of declaration—"Merchandise" applies to cargo only.—A submarine apparatus fitted to an enemy ship, but in fact the property of an American firm let on lease for the ship, is not "merchandise" within the exemption from condemnation in the Declaration of Paris, and accordingly was condemned as a part of the vessel taken as prize.—"THE SCHLESIAN," P.D., 163.

9. *Enemy ship—Cargo being unloaded on quay—Oil—Subject to test by Customs authorities—Oil "on land" or "in port."*—Enemy oil which has been pumped from an English ship into the tanks of a wharfinger 100 yards from the wharf at Purfleet in the Thames before the Customs authorities claimed it as prize can still be condemned as droit of Admiralty.—"THE ROUMANIAN," P.D., 206; 1915, P. 26.

10. *Enemy ship condemned—No rights recognized in pledges of the enemy cargo.*—Pledges of enemy cargo have no rights against that cargo in the Prize Court.

The decisions in *The Ida* (Spinks, 26) and *The Carlos F. Roses* (177 U.S. Sup. C. Rep. 655) applied.—"THE ODESSA," P.D., 189; 1915, P. 52.

11. *Enemy ship—Seized as prize—Previously arrested for necessities—Priority of rights—Paramount right of Crown.*—The rights of the Crown as captors of an alien enemy ship take precedence of all other claims, and are not displaced by an antecedent arrest of the ship by a claimant for necessities. Proceedings by the claimant for necessities are suspended on seizure of the ship by the Crown.—"THE TERGESTRA," P.D., 530.

12. *Enemy ship—Seizure of cargo—No claim by consignee—Order for sale—Prize Court Rules, 1914, ord. 27, r. 2.*—Where the consignee of certain goods in an enemy ship had not taken up the bills of lading and they refused to pay the expenses of detention, on which payment the Procurator-General was willing to release to them the goods, and where they, the consignees made no claim to the goods, which were still incurring continuing charges for warehousing, an order was made, under Prize Court Rules, ord. 27, r. 2, for the goods to be sold and the proceeds of sale to be paid into Court, with liberty to any parties interested to apply for payment out of such proceeds of sale.—"THE HORST MARTINI," P.D., 221.

13. *Enemy subject—Claims of—Commercial domicile—Place of business in neutral country—Confiscation.*—The Crown can claim condemnation of goods seized in transit of an enemy subject having a house of business in a neutral country or in British territory, but who himself resides in an enemy country. Such enemy subject, resident at Hamburg, cannot set up his commercial domicile in a neutral country at Khartoum against the claim of the Crown for condemnation of goods belonging to the firm of which the said enemy subject was a partner, shipped from Khartoum and seized by the Crown at Liverpool. Although a person carrying on business in an enemy country has his commercial domicile there, the converse of the rule does not extend to the case of a merchant residing in a hostile country, and having his house of trade in a neutral country.—"THE CLAN GRANT," P.D., 430.

14. *Jurisdiction of Prize Court—Ouster of jurisdiction of the common law courts to try claims as to freight on cargo seized as prize and subsequently released—Exclusive jurisdiction as to captures jure belli and torts connected therewith.*—A dispute between a claimant of cargo and a shipowner claiming freight on cargo of a perishable nature which had been seized by the Crown as prize and sold, and the proceeds of sale paid into Court and subsequently released, must be heard and determined in the Prize Court. The Prize Court has exclusive jurisdiction in such a matter, which entirely ousts the jurisdiction of the common law courts.

Faith v. Pearson (4 Camp. 35) applied.—"THE CORSICAN PRINCE," P.D., 317.

15. *Mortgages—Goods consigned to an English port—Advance made by the sellers on commission—Difficulty of obtaining a ship, owing to Government requisitioning the ship in which the goods should have been delivered—Equitable estoppel against the Crown.*—Mortgagees of Turkish enemy goods have no rights in the Prize Court, even though the goods are consigned to a British port, and the advances were made by persons who had arranged to sell them in this country on commission. The ruling in *The Odessa* (ante, p. 189) held to cover such a case as this. There is no principle upon which the Crown can be estopped in equity from setting up a claim to these goods on the ground that, if they had been shipped in the ship in which it was originally intended that they should have been shipped, they would have reached England before the outbreak of war with Turkey, but that they were prevented from so doing because such ship was requisitioned by the English Government.—"THE LINARIA," P.D., 530.

16. *Outbreak of war—Vessel seized "at sea" or "in port"—Hague Convention VI. (1907), Articles 1 and 2—What is "in port"?—What is "entering" the port?*—A German vessel on a voyage from New York to Hamburg heard on 3rd August by wireless that war had broken out between France and Germany, and her master determined to run into the Bristol Channel for instructions, or to avoid possible capture by a French ship of war; and actually arrived two miles out to sea from the town of Newport on 4th August, but was not allowed by the authorities there to come into Newport, on the ground that she might be an armed German liner with troops on board waiting to make a raid on our shores if and when war was declared by Germany against England or England against Germany. She was instructed by the officer in command of the Severn defences to come to an anchorage where she was, and she did so. Next morning, war having meanwhile been declared between England and Germany, she was brought into Newport, and instructed that she was detained.

Held, that, on the facts, she was captured at sea on the outbreak of hostilities.

The Mave (59 SOLICITORS' JOURNAL, 76; 1915, P. 1) applied.

Quare, whether a vessel coming into a port to avoid possible capture or to get instructions, in similar circumstances to the above, could be said to be entering the port for commercial purposes at all; in other words, whether she would be within the First and Second Articles of the Sixth Hague Convention.

Garston v. Hickie (15 Q. B. D. 580) not applicable to such a case as this.—"THE BELGIA," P.D., 561.

17. *Postal packet—From German colonists—To Germany—In German ship—Parcel post—Hague Conventions, 1907, No. XI.—Extent of exemption.*—Article 1 of the Hague Conventions, 1907, Number XI, while exempting postal correspondence from capture does not apply to parcel post.—"THE SIMLA," P.D., 546.

18. *Requisitioning order—Order made ex parte—Jus angarie—"Good reason to believe the goods to be neutral property"*—Prize Court Rules, 1914, ord. 1, r. 2; 29, r. 1.—A requisitioning order ought not to be made by the registrar of the court *ex parte*, requisitioning on behalf of the Crown copper in neutral ships brought into an English port under a claim for contraband, when in fact there is "good reason to believe (the goods) to be neutral property," as laid down in the proviso to Prize Court Rules, ord. 29, r. 1, inasmuch as by virtue of ord. 1, r. 2, the word "ship" in that proviso includes "goods."—"THE ANTARES," P.D., 384.

19. *Seizure of cargo—Right of Crown to requisition before condemnation—Contraband of war—Property of neutrals—Prize Court Rules, order 29.*—Nothing contained in the provisions of order 29 of the Prize Court Rules, which deals with requisitioning by the Crown, is repugnant to international law.

The powers entrusted to and to be exercised by the Prize Court under that order are in accordance with the inherent powers of the Court itself, and are within the rights of the Crown under the statutory provisions, no less than under its prerogative authority.—"THE ZAMORA," P.D., 614.

20. *Shipping—Alien enemy vessels—Transfer on eve of war—German company—English company composed of alien enemy shareholders—Validity of transfer—Declaration of London, Articles 55, 56 and 57—Seizure in British ports—Detention order.*—The *Tommi* and *The Rotherland*, two ships owned by a German company, and registered at Hamburg, were at sea on 1st August, on which date the German company telegraphed to an English company, in which they (the German company) owned nine-tenths of the shares: "We sell you *Tommi* for 30,000 marks and *Rotherland* for 35,000 marks. Wire acceptance." An acceptance was wired by return.

Quare, was that an offer by the German company to sell or a mandatory direction to the English company to buy?

When the ships were seized in British ports they were flying the German flag. Article 57 of the Declaration of London says that the enemy character of a vessel is determined by the flag which she is entitled to fly at the time of her seizure.

Held, these ships were entitled to fly the German flag, and Held, accordingly, that on that ground they were the proper subject of seizure.

Held, also, that the transfer or attempted transfer was not valid.

The technicalities of municipal law as to the precise moment at which property passes are disregarded by the Prize Court, which only looks at the essential qualities of the transaction.

Quare, whether a company consisting entirely of aliens can own a British ship?

Quare, whether if the transfer had been completed to this English company composed of aliens, the Prize Court would not

regard these ships still as German ships.—"THE TOMMI" AND "THE ROTHERSAND," P.D., 26.

21. *Shipping—Enemy ship—Capture on the high seas—Ignorance of declaration of war—Hague Conference, 1907—Convention VI., Art. 3—Prize—Neutral rights under enemy flag—Right of alien enemy to appear in Prize Court—Kind of affidavit required—Shareholders—Neutral mortgages—Rejection of mortgages' claims—Claimants for price of necessities—Bounty of the Crown—Germany cannot pray in aid Article 3 of Convention VI., of the Hague Conference, 1907, to prevent her ships taken without knowledge of the war from being confiscated, seeing that she refused to be bound by the article.*

Quære, how far the conventions of the Hague Conference are applicable and binding in the Prize Court of this country.

Under order 3, rule 5, of the Prize Court Rules an alien enemy must set out the facts which entitle him in special circumstances to come to the Court and to enter an appearance.

The Panja Dropaniotis (Spinks, 336) followed.

Where there is nothing in the affidavit to shew that the hostile character of the enemy has been suspended in any way by flag of truce, cartel, pass or other act of public authority which puts him in the King's peace *pro hac vice*, he is totally *ex lege*, and cannot be heard, and his appearance must in such a case be struck out.

See *The Hoop* (1 Ch. Rob. 196, at p. 201).

The property in a ship is governed by its flag, and shareholders, including neutrals and British subjects, must take the risk of the flag. The shareholders who are British subjects or neutrals, and also the claimants for necessities and disbursements, should put their case before the Crown, and rely on its exercise of the prerogative of bounty. A claim by mortgagees, although they are neutrals or British subjects, on an enemy ship, will not save such ship from condemnation, and such a claim must accordingly be rejected and the mortgagees left to petition for an exercise of the bounty of the Crown.

The Ariel (11 Moo. P. C. C. 119) and *The Tobago* (5 Ch. Rob. 218) followed.

The Declaration of Paris, 1856, only deals with the merchandise carried in ships, and cannot be taken in any way to countenance the contention that neutral mortgagees of the vessels themselves should have a rule of law created for their protection. The interpretation of the Declaration of Paris, 1856, by prize tribunals does not in any case give countenance to such a contention. The case of *Der Turner* in the Prize Court of France, as reported in *Barboux, Jurisprudence du Conseil des Prix*, p. 76, and the case of *The Hampton*, Supreme Court of the United States of America (76 U.S. Rep. (5 Wall) 372), and many other cases, support this view.—"THE MARIE GLAESER," P.D., 8.

22. *Shipping—Fishing cutter not for coast fishing only—No immunity from capture—Evidence in the Prize Court of capture after the outbreak of hostilities—Hague Conventions, 1907, No. XI., Art. 3.—Where a German fishing cutter of 110 tons, manned by fifteen hands, and having on board various accessories of herring fishing, which had been on a fishing voyage in the North Sea, about 100 miles from the nearest land, England, and 500 miles from the German coast, was captured,*

Held, not to come within the category of coast fishing vessels entitled to freedom from capture, but, by reason of her size, equipment, and voyage, to be a deep sea fishing vessel engaged in a commercial enterprise forming part of the trade of the enemy country, and, as such, properly captured as a prize of war.—"THE BERLIN," P.D., 59.

23. *Shipping—Meaning of words "in port" in Convention VI. of Hague Conference, 1907—Translation of "rencontres en mer"—"On high seas" inaccurate—"En haute mer" or "en pleine mer"—Vessel which has started or resumed her voyage not "in port"—Alien enemy—Right to appear in certain cases—New practice allowing appearance created by Prize Court.—Where an enemy vessel had quitted the harbour of Morrison's Haven, near Leith, just before the outbreak of war, but was still within the customs port of Leith when captured immediately after the outbreak,*

Held, that she was not "in port" within the meaning of Convention VI. of the Hague Conference, 1907, and was properly captured as a prize of war.

Quære, whether the Hague Convention is binding on Great Britain in this war or not.

The question whether alien enemies should in certain cases be allowed to appear is not a question of international law, but a question of the practice of the Court.

The Prize Court has inherent power of regulating and prescribing its own practice unless fettered by enactment.

The Prize Court accordingly gives directions that the practice of the Court shall be that whenever an alien enemy conceives that he is entitled to any protection, privilege or relief under any of the

Hague Conventions of 1907, he shall be entitled to appear as a claimant, and to argue his claim before such Court.

The Marie Glaeser (ante, p. 8; 1914, P. 218) commented upon and considered.—"THE MÖWE," P.D., 76; 1915, P. 1.

24. *Time for trial—Prize Rules, ord. 15, r. 7.—Where cargoes consisting of a very great number of different small consignments had been seized as contraband, and the ships had been detained, to be condemned on the ground that they were carrying cargo, more than half of which would be found to be contraband, the full time under ord. 15, r. 7, was allowed to the Crown to get ready their case.—"THE KIM," P.D., 428.*

25. *Trading with the enemy—Neutral vessel—Shippers a French company—Cargo originally destined for Germany—Liability to capture and confiscation of property of Allies alleged to have been trading with the enemy.—On the outbreak of a war in which a belligerent has allies, the citizens of all the allied States are under the same obligations to each allied State as its own subjects would be to a single belligerent State with relation to intercourse with the enemy.*

Where such illegal intercourse is proved between allied citizens and the enemy, their property engaged in such intercourse, whether ship or cargo, is subject to capture by any allied belligerent, and is subject to condemnation in that belligerent's own prize court.

Semble.—The prohibition against intercourse with the enemy extends to intercourse of all kinds, and not only to commercial intercourse.—"THE PANARIELLOS," P.D., 399.

PROBATE.—

1. *Administration—Wife's estate—Bankruptcy of husband—Grant to trustee in bankruptcy—Citation of or notice to husband dispensed with—Court of Probate Act, 1857 (20 & 21 Vict. c. 77), s. 73.—Where the husband of a deceased intestate was an undischarged bankrupt, a grant of administration to the wife's estate was, under section 73 of the Court of Probate Act, 1857, made to the husband's trustee in bankruptcy, without citation of or notice to the husband.—RE BOWRON, P.D., 108.*

2. *Administration on intestacy—Estates of alien enemies—Court of Probate Act, 1857 (20 & 21 Vict. c. 77), s. 73—Special circumstances—Limited grant to attorney of next-of-kin—Trading with the Enemy Amendment Act, 1914 (5 Geo. 5, c. 12)—Position of Public Trustee.—In granting, in special circumstances, a limited administration, under section 73 of the Court of Probate Act, 1857, to the estates of two intestates, who were alien enemies, to a British subject resident in England, who was the attorney appointed by their respective next-of-kin, the Court observed that in almost all cases where the estates of alien enemies have to be administered, whether the deceased died domiciled in England or abroad, the Public Trustee should, in the public interest, apply for and obtain the grant of administration.*

In the Estate of Koenigs (Deceased) (59 SOLICITORS' JOURNAL, 130) and *In the Estate of Schiff (Deceased)* (59 SOLICITORS' JOURNAL, 333) considered.—IN THE ESTATE OF GRUNDT, P.D., 510.

3. *Administration on intestacy—Next-of-kin alien enemies—Grant to the Public Trustee—Court of Probate Act, 1857 (20 & 21 Vict. c. 77), s. 73—Trading with the Enemy Amendment Act, 1914 (5 Geo. 5, c. 12), s. 1.—Where the next-of-kin of a deceased intestate are alien enemies, the Public Trustee is the proper person to take the grant of administration to the deceased's estate.*

In the Estate of Herman Koenigs, Deceased (59 SOLICITORS' JOURNAL, p. 130), not followed.—IN THE ESTATE OF SCHIFF, P.D., 303; 1915, P. 86.

4. *Administration with the will annexed—Executors and legatees alien enemies—General grant to attorney of executors—Direction not to distribute estate without leave—Court of Probate Act, 1857 (20 & 21 Vict. c. 77), s. 73.—Where the executors and residuary legatees named in the will of a naturalized British subject were alien enemies, a general grant of administration, with the will annexed, under section 73 of the Court of Probate Act, 1857, was made to the attorney appointed by the executors before the outbreak of war, with directions not to distribute the estate without the leave of a registrar.—IN THE ESTATE OF KOENIGS, P.D., 130.*

5. *Administration with the will annexed—Will not appointing executors—Grant to executors appointed in earlier revoked will—Consent of parties—Court of Probate Act, 1857 (20 & 21 Vict. c. 77), s. 73.—After probate of a will of a testatrix had been granted in common form to the executors named therein, a later will was found, in which the testatrix dealt with the whole of her property, but made no appointment of executors. The Court revoked the probate of the earlier will, and pronounced against that will, but, with the consent of all persons interested, granted letters of administration with the later will annexed, under section 73 of*

the Court of Probate Act, 1857, to the persons named as executors in the earlier will.—*RE WATKIN, P.D.*, 220; 1915, P. 24.

6. *Practise—Will—Limited executrix also entitled to administration with will annexed—Form of grant.*—The widow of a testator, whom he had by his will appointed his sole executrix so far as related to a business carried on by him, was, in consequence of the death or renunciation of the persons appointed executors of the estate other than the business, as residuary legatee and devisee for life, entitled to administration with the will annexed in respect of the rest of the estate. The Court granted probate of the will to the widow as the executrix named therein only so far as related to the said business, and directed that the grant should recite that she was also residuary legatee and devisee for life named in the will.—*IN THE ESTATE OF FALKNER, P.D.*, 599.

PUBLIC AUTHORITIES:—

Public Authorities Protection Act, 1893, s. 1 (a)—Action for personal injuries—Motor car owned by corporation—Returning to garage after taking out corporation officials on business of corporation—Limitation of time for bringing action—Act done in execution of any public duty or authority.—A motor car, the property of the corporation, was used to convey their engineer on his visits to the various pumping stations for the purpose of his inspecting the same on behalf of the corporation, and on the day in question the engineer made his round of inspection as usual. It was the day in the week on which a clerk from the treasury department also went round for the purpose of paying weekly wages. As the motor car was returning, after the round was done, to the garage, the plaintiff's wife was knocked down while attempting to cross a high road and injured. The writ in the action was not issued within six months from the date of the accident. At the trial the jury awarded the plaintiffs' damages.

Held, that judgment in accordance with the verdict had rightly been entered for the plaintiffs, as the act done was not in the exercise of any public duty or authority within the meaning of section 1 of the Public Authorities Protection Act, 1893, and the section had no application to a matter merely incidental to the performance of a statutory duty by the corporation.

Decision of Darling, J., affirmed.—*CLERKE v. ST. HELENS CORPORATION, C.A.*, 509.

PUBLIC HEALTH.—See Local Government.

PUBLIC TRUSTEE:—

Power to accept trusts of foreign settlement—Foreign land—Scotch settlement—Public Trustee Act, 1906 (6 Ed. 7, c. 55), ss. 2, 4, 7, 17.—The Public Trustee Act, 1906, does not extend to a foreign settlement, that is, to a settlement governed by the law of a country to which the Act does not extend. The Public Trustee, therefore, cannot accept the trusts of a foreign or Scottish settlement; but that does not prevent him from accepting the trusts of an English settlement which includes foreign property.—*RE HEWITT'S SETTLEMENT, EVE, J.*, 177; 1915, 1 Ch. 228.

RAILWAY:—

1. *Carriage of goods—Consignment note—"Goods received and held subject to general lien. . . . Moneys due . . . from the owners of such goods upon any account"—Construction of condition.*—The plaintiffs consigned goods from the United States to T. & Co. in England. The goods were shipped upon a through bill of lading, which provided that they were to be carried to Manchester, and from there to be forwarded to T. & Co. via the defendant's railway, "and the carrier is authorized by the owner to forward by connecting carrier, and upon such conditions as the latter may exact." The defendants had the following condition on their consignment note:—"All goods delivered to the company will be received and held by them subject to a lien for money due to them for the carriage of and other charges upon such goods, and also to a general lien for other moneys due to them from the owners of such goods upon any account." Before the goods were delivered T. & Co. became insolvent, and the plaintiffs claimed to stop the goods *in transitu*. The defendants were paid their charges in respect of the particular conveyance, but T. & Co. were largely indebted to the defendants in respect of the conveyance of other goods, and the defendants claimed to exercise their general lien on the goods as against the plaintiffs.

Held, on consideration, that the defendants were not entitled to do so.—*UNITED STATES STEEL PRODUCTS CO. v. GREAT WESTERN RAILWAY, H.L.*, 648.

2. *Carriage of goods—Special contract—"Owner's risk"—Meaning of "non delivery" of consignment—Non-delivery of part of consignment.*—The defendants, a railway company, contracted with the plaintiff to carry three consignments of carcases. In the first case eight days, in the second case four days, and in the third two

days after the arrival, but in each case within fourteen days after the dispatch of the consignments, the plaintiffs claimed in writing that there was a shortage in the number of carcases in each consignment, and he claimed damages in respect of the same. The goods were consigned at owners risk and the contract was subject to certain general conditions, printed on the back, clause 3 of which was as follows:—"No claim in respect of goods for loss or damage during the transit, for which the company may be liable, will be allowed unless the same be made in writing within three days after delivery of the goods in respect of which the claim is made, such delivery to be considered complete at the termination of the transit . . . or in the case of non-delivery of any package or consignment within fourteen days after dispatch."

Held, that a consignment was not delivered if an appreciable part was not delivered, and therefore that the plaintiff in an action for damages was entitled to judgment.

Decision of Divisional Court (58 SOLICITORS' JOURNAL, 140; 1914, 1 K. B. 263, 83 L. J. K. B. 418) affirmed.—*WILLS v. GREAT WESTERN RAILWAY, C.A.*, 89; 1915, 1 K. B. 199.

RATING:—

1. *Charitable foundation—Public charity—Private charity—Exemption from rating—Towns Improvement Clauses Act, 1847, (10 & 11 Vict. c. 34), s. 168.*—By section 168 of the Towns Improvement Clauses Act, 1847, no person shall be rated to any rate made in pursuance of this or the special Act in respect of, *inter alia*, "any building exclusively used for the purposes . . . of public charity."

By the deed of foundation of a certain charity, the primary objects of the charity were declared to be (1) To provide a home for ladies of birth and education who had become reduced in circumstances, and for such ladies who, by their pecuniary needs, might be deserving a better and more comfortable position in life; (2) to pay annuities to such ladies as aforesaid who might become occupants of the home, and who were called "lady occupants"; (3) to pay annuities to other ladies who were not occupants of the home, and who were known as "lady recipients." There were certain restrictions in the deed which confined the benefits of the charity to ladies of not less than a certain age, of good character and certain means, and a preference was to be given to those who were born or had been resident for not less than five years in H.

Held, that, as there was no special definition as to what constituted a "public charity" for the purposes of the exemption to rating conferred by the Act of 1847, unless the restrictions imposed were confined to the narrowest limits, the presumption was that the charity was a public one, and consequently that the homes established in connection with such a charity were exempt from rating under the Act.

Decision of Divisional Court (Lush, Rowlatt, and Atkin, JJ.) affirmed.

Attorney-General v. Pearce (2 Atk. 87) followed.—*SHAW v. HALIFAX CORPORATION, C.A.*, 315; 1915, 2 K. B. 170.

2. *London—General rate—Consolidated rate—Police rate—New rates and assessments since 1767—"Free from all taxes and assessments whatsoever"—7 Geo. 3, c. 37, s. 51—City of London Police Act, 1837 (2 & 3 Vict. c. xciv.)—City of London Sewers Act, 1848 (11 & 12 Vict. c. cxliii.)—City of London (Central Criminal Court House) Act, 1904 (4 Ed. 7, c. xciii.)—City of London (Union of Parishes) Act, 1907 (7 Ed. 7, c. cxl.).*—The appellants were occupiers of premises built on land within the area reclaimed from the river Thames, and exempted from "all taxes and assessments whatsoever" by the Act of 7 Geo. 3, c. 37. They were rated to the general rate levied by the respondents, and on a case stated by quarter sessions, the Divisional Court held that, as to so much of the rate as was made for expenses in respect of paving, cleansing, &c., and sanitary charges other than those of sewerage and drainage, the appellants were liable, but that as to so much of the rate as was made for expenses in respect of police, as it was a rate for purposes existing at the date of the statute 7 Geo. 3, c. 37, the appellants were not liable.

The appellants appealed on the first point, the respondents on the second.

Held, that the decision of the Divisional Court was right on the first point but wrong on the second point, inasmuch as the police rate, as now existing, was in effect a new rate, and the appellants therefore were not exempt.

Decision of Divisional Court (1914, 2 K. B. 822, 12 L. G. R. 426, 83 L. J. K. B. 988) varied.—*ASSOCIATED NEWSPAPERS v. LONDON CORPORATION, C.A.*, 545; 1915, 3 K. B. 128.

3. *Railway—Valuation—Metropolis—Link line of railway worked at a loss—Contributory feeding value—Valuation*

(*Metropolis*) Act, 1869 (32 & 33 Vict. c. 67), s. 32.—The appellants were joint owners of a short line of railway situated partly in the parish of Kensington and partly in the parish of Hammersmith. The appellants earned no profits on the line, but it had a contributive value as a feeder to the appellants' systems. The quarter sessions held they were not entitled to take into account the contributive value of the line, that neither company was a possible competitor for the sole occupation of the line, and that no other competitor would give a rent sufficient to support the assessment appealed against, and consequently the line must be assessed solely with regard to the earnings in the parish, which they assessed at £100. The Divisional Court reversed that decision, being of opinion that the line was rateable on the basis of its contributive value at £4,800, and on appeal that decision was affirmed.

Held, after consideration, that the decision of the Court of Quarter Sessions was right. There were no special circumstances of the line to take it out of the general rule laid down in the *Banbury* case (1909, A. C. 612), and the exceptional case of *East London Railway Joint Committee v. Greenwich Union* (1913, 1 K. B. 612) had no application.

Decision of Court of Appeal (12 L. G. R. 1170) reversed.—*GREAT WESTERN AND METROPOLITAN RAILWAY COMPANIES v. HAMMERSMITH ASSESSMENT COMMITTEE. SAME v. KENSINGTON ASSESSMENT COMMITTEE, H.L.*, 744.

RECEIVER.—See *Alien Enemy, Company, Judgment*.

RESTRAINT OF TRADE:—

1. *Agreed sum to be paid on breach of any of several stipulations of varying importance—Penalty or liquidated damages.*—An agreement between the plaintiffs and the defendant provided that the plaintiffs should sell their motor-cars to the defendant for sale by him within a certain district, the defendant undertaking not to sell any car or parts below a certain price, and to pay to the plaintiffs £250 for every breach of such undertaking, the sum fixed being expressed to be "the agreed damages which the manufacturer will sustain." The defendant sold five cars at a lower price than that fixed.

Held (Bankes, L.J., dissenting), that the agreed sum was a penalty and not liquidated damages, as breaches of the different conditions in the agreement would result in damages largely varying in amount, and therefore the sum of £250 was not a fair pre-estimate of the probable damage within the meaning of the decision in *Dunlop Pneumatic Tyre Co. v. New Garage and Motor Co. (Limited)* (1915, A. C. 79).

Decision of Atkin, J. (58 SOLICITORS' JOURNAL, 456), affirmed.—*FORD MOTOR CO. v. ARMSTRONG, C.A.*, 362.

2. *Agreement by servant not to be engaged in trade or manufacture similar to that of employer—Special department of engineering—Restraint for seven years over United Kingdom—Experience in methods of factory organization—Reasonableness—Public interest.*—An engineer who had been for ten years in the employment of a firm with a large business, in which they had few competitors, in manufacturing special kinds of machinery, entered, at their request, into a service agreement containing a covenant restraining him from carrying on, or being concerned or assisting in any capacity in, the sale or manufacture of the class of machinery made by the firm or any parts thereof for a period of seven years from the date of their ceasing to employ him, the restraint to extend over the United Kingdom.

Held (Phillimore, L.J., dissenting), that the covenant was unreasonable and ought not to be enforced, being wider than was necessary for the master's protection.

Decision of Sargant, J. (59 SOLICITORS' JOURNAL, 147), affirmed.—*HERBERT MORRIS (LIMITED) v. SAXELBY, C.A.*, 412; 1915, 2 Ch. 57.

3. *Covenant—Vendor and purchaser—Reasonable protection—Severability of the covenant both as regards area and nature of business.*—The vendor of a business covenanted with the purchaser not to enter into competition with him as a dealer in real or imitation jewellery for a period of two years in the areas of the United Kingdom, France, the United States, Spain, Russia, Berlin and Vienna. The vendor, whose business had been entirely concerned with imitation jewellery, having committed a breach of the covenant.

Held, that though in its entirety it was wider than was required for the protection of the purchaser in his business, it was severable, and ought to be enforced against the defendant to the extent of restraining him from carrying on a competing business in imitation jewellery in the United Kingdom.

Order of Neville, J., varied by omitting the words "real or."—*GOLDSOLL v. GOLDMAN, C.A.*, 188; 1915, 1 Ch. 292.

4. *Covenant by employee not to entice away master's customers or advertise that she was lately in the master's employment—Covenant too wide—Alleged breaches of the covenant—Abandonment of the contract by the master—Dismissal of employee—Week's wages in lieu of notice—Master not disentitled to sue on the covenant—Soliciting a person not at the date of solicitation a customer of old employer.*—(1) Where an employee enters into a valid covenant in restraint of trade with his employer and the employer dismisses him, giving him a week's wages in lieu of notice, the employer merely discharges his obligation, and cannot be said to have abandoned his right to sue under the covenant.

(2) Where the relationship of the employee was not that of a partner in her new employment, and she had covenanted with her old employer not to advertise that she was late with her old employer, and her new employer had also at one time been with her old employer, the new firm's advertisement "late of" the old employment was no breach of the covenant against advertising.

(3) A covenant "not at any time during or after the determination of the employment (whether the same shall be determined by notice or otherwise) directly or indirectly, either on her own account or for any other person, or for any firm or company, to solicit, interfere with, or endeavour to entice away from the master" is too wide, since it extends to past and future customers.—*KASKI v. PEET, Neville, J.*, 383; 1915, 1 Ch. 530.

REVENUE:—

1. *Income tax—Company registered and resident in England—Business carried on abroad—Income Tax Act, 1842 (5 & 6 Vict. c. 35), s. 100, Schedule D, cases 1 and 5.*—The respondents were a company registered in England, who owned and carried on hotels in Egypt. There were directors in England, and also a local board in Egypt. The Court of Appeal held that the respondents were not liable to an assessment made on the whole of their profits earned in Egypt, but only to profits remitted to the United Kingdom. The surveyor of taxes appealed.

Held, after consideration (Earl Loreburn and Lord Parmoor being for allowing the appeal, Lords Parker and Sumner for dismissing it), that as the House was equally divided in opinion the rule that in such a case the appeal was dismissed without costs applied.

Accordingly the decision of the Court of Appeal (1914, 3 K. B. 118, 111 L. T. R. 189) was affirmed, and no order made as to costs.—*MITCHELL v. EGYPTIAN HOTELS (LIMITED), H.L.*, 649.

2. *Income tax—Company—Balance of profits and gains—Brewery business—Expenses of tied houses—Deductions—Income Tax Act, 1842 (5 & 6 Vict. c. 35), s. 100, Schedule D—Income Tax Act, 1853 (16 & 17 Vict. c. 34), s. 2.*—A brewery company claimed to have an assessment to income tax reduced by carrying in expenses connected with their tied houses. The tied houses were a necessary incident of the profitable working of the company's business, and were neither acquired nor held as investments.

Held, that the brewery company were entitled to bring into account expenses which they had properly, though voluntarily, incurred, including repairs, difference in rent paid and annual value of premises to company, legal expenses connected with the renewal of licences, and the like, in order to keep the tenants, and so avoid frequent transfers, which would endanger the renewal of the licence.

Decision of Court of Appeal (1914, 2 K. B. 891) reversed.

Smith v. Lion Brewery Co. (1911, A. C. 150) followed.

Brickwood v. Reynolds (1898, 1 Q. B. 95) disapproved.—*USHER'S WILTSHIRE BREWERY v. BRUCE, H.L.*, 144; 1915, A. C. 433.

3. *Income tax—Company—Manager—Payment of commission to—Agreement for percentage on annual net profits—Prior deduction of income tax—Certificate of auditors—Conclusiveness of—Income Tax Act, 1842 (5 & 6 Vict. c. 35), s. 54.*—Income tax is such part of the profits of a business as the revenue is entitled to take, and accordingly should not, in the absence of very special circumstances, be deducted before arriving at the net profits of the business, being itself a part of those profits.

Ashton Gas Co. v. Attorney-General (1906, A. C. 10) applied.

Where an auditor's certificate of the net profits of the company has been given on a wrong principle, it is not conclusive.—*JOHNSTON v. CHESTERGATE RAT CO., Sargant, J.*, 692.

4. *Income tax—Foreign possessions—Discretionary trust for maintenance and education of infants—Remittances to guardian in United Kingdom—Income Tax Act, 1842 (5 & 6 Vict. c. 35), ss. 41, 100, Schedule D, case 5—Income Tax Act, 1853 (16 & 17 Vict. c. 34), s. 2, Schedule D.*—A foreigner, resident in America, made provision by his will for his three grandchildren, who were infants:

residing in England with their mother their guardian. The will provided that the trustees should accumulate the income until the children should respectively have attained the age of twenty-five years, and that no child should have any vested interest during the continuance of the trust. The trustees had power in their discretion to make provision for the maintenance and education of the children, and had remitted money for that purpose.

Held, that these remittances were assessable to income tax under section 100, case 5, of the Income Tax Act, 1842, Schedule D, as being moneys received in England in respect of foreign possessions.

Decision of Court of Appeal (Joyce, J., dissenting) (1914, 2 K. B. 643) affirmed.—*DRUMMOND v. COLLINS*, *H.L.*, 577.

5. *Income tax—Prohibition—Rule nisi—Profits and gains from "foreign possessions"—Place of assessment—Option—Income Tax Act, 1842 (5 & 6 Vict. c. 35), ss. 106, 108—Taxes Management Act, 1890 (43 & 44 Vict. c. 19), s. 52.*—Where the whole of the profits or gains arising from "foreign possessions" are received by a taxpayer in the City of London and not elsewhere, the same are assessable only to income tax by the Commissioners for the City of London, and the taxpayer is entitled to a writ of prohibition against other income tax commissioners who seek to assess him in the parish in which he resides.

Held, affirming, after consideration, decision of Court of Appeal (1914, 3 K. B. 429).—*INCOME TAX COMMISSIONERS v. ARAMAYO*, *H.L.*, 715.

6. *Income tax—Super tax—Assessment for previous year under Schedule D taken for assessment of super-tax—Assessment under Schedule D incorrect—Obligation of special commissioners to make an assessment—Finance (1909-10) Act, 1910, ss. 66, 72.*—For the purpose of assessment to super-tax under section 66 (2) of the Finance (1909-10) Act, 1910, the sum to which the taxpayer has been assessed to income tax under Schedule D for the year preceding the year of assessment to super-tax is not conclusive and binding on the special commissioners, and if the taxpayer objects, on the ground that such assessment was incorrect, the special commissioners must inquire afresh and make an assessment.—*INLAND REVENUE COMMISSIONERS v. BROOKS*, *H.L.*, 160; 1915, A. C. 478.

7. *Inhabited house duty—Exemption—Separate tenements—House Tax Act, 1808 (48 Geo. 3, c. 55), Schedule B, rule 6—Customs and Inland Revenue Act, 1878 (41 & 42 Vict. c. 15), s. 13 (1) and (2).*—By section 13 (1) of the Customs and Inland Revenue Act, 1878, it is provided that "where any house, being one property, shall be divided into and let in different tenements, and any of such tenements are occupied solely for the purposes of any trade or business or any profession or calling by which the occupier seeks a livelihood or profit," inhabited house duty is to be assessed as though the house comprised only the tenements not so occupied. A block of buildings at one time used as an hotel was converted into business premises. The whole building was let off as offices in sets of one or more rooms, to which entrance was obtained from the central staircase or from passages leading therefrom. There was a caretaker resident on the building, and one set of eight rooms was used as a dwelling-house. The Crown claimed that the block was liable to inhabited house duty, except in respect of the caretaker's rooms. On a case stated,

Held (Lord Sumner dissenting), that, on the true construction of section 13 (1) of the Customs and Inland Revenue Act, 1878, the building was divided and let off in different tenements, and in respect of such as were used for business, inhabited house duty was not leviable.

Decision of First Division of Court of Session (reported 1913, S. C. 1126) affirmed.—*FARMER v. COTTON'S TRUSTEES*, *H.L.*, 611.

8. *Inhabited house duty—Premises "belonging to and occupied with" a house—House Tax Act, 1808 (48 Geo. 3, c. 55), Schedule B, r. 2.*—School buildings in the occupation of the governing body of a school, such as a school hall (used for prayers and other general assemblies but not for meals), class rooms, school library, &c., forming part of the school, are not assessable to inhabited house duty within the House Tax Act, 1808, although they are used by scholars who inhabit other buildings forming part of the school, as well as by the boys who do not reside in the school at all.

Decision of Court of Appeal (57 SOLICITORS' JOURNAL, 499; 1913, 3 K. B. 129, 6 App. Cas. 167) reversed, and order of Horridge, J. (1913, 1 K. B. 190), restored.—*WESTMINSTER SCHOOL v. REITH*, *H.L.*, 57; 1915, A. C. 259.

9. *Land valuation—Farm let on lease—Unworked minerals reserved to owners—Return furnished to commissioners—No description or estimate of value of minerals—Invalid form of notice—Finance (1909-10) Act, 1910 (10 Ed. 7, c. 8), ss. 2 (3), 23 (2), 26 (1).*—The owners of a farm let on lease, the unworked minerals underlying which were reserved to them, received a notice from the

Commissioners of Inland Revenue requiring them to make a return on a form (Form IV.) for purposes of land valuation. The form did not purport to treat the minerals as a separate parcel for valuation purposes, and a note thereon stated that unless the owners described and set a value on the minerals their value should be treated as nil on 30th April, 1909. The owners, in filling up the form, inserted no description or estimated value of the minerals. The minerals having been sold at a later date, and the Crown having claimed increment value duty on the sale,

Held, (1) that the minerals being in a different occupation to the land, and not having been treated as a separate parcel, the form requiring the return was invalid; (2) that the return made was not a return within section 23 (2) of the Act, and did not bind the owners; (3) that they were entitled to make a proper return on a proper notice and have a substituted capital value fixed in respect of the minerals.

Decision of Warrington, J., reversed.—*FORAN v. ATTORNEY-GENERAL*, *C.A.*, 349; 1915, 1 Ch. 703.

10. *Licence duty—Increase of—Free house—Part of increase recoverable from grantor—Finance Act, 1912 (2 & 3 Geo. 5, c. 8)—Finance (1909-10) Act, 1910 (10 Ed. 7, c. 8), s. 46.*—In construing the meaning of the words "the grantor of the lease" used in section 2 of the Finance Act, 1912, regard must be had to the facts of each particular case, and where a person who, on the face of lease, was the grantor was in reality only a mortgagee of co-adventurers who were the real "grantors," such person was held not liable as "a grantor of the lease" under this section.—*BODEGA CO. v. MARTIN*, *Atbury*, J., 651.

11. *Licence duty—Increase of—Free house—Right to recover proportion from "grantor of lease"—Claim against reversioner—Finance (1909-10) Act, 1910 (10 Ed. 7, c. 8)—Finance Act, 1912 (2 & 3 Geo. 5, c. 8), s. 2.*—The right, given by the Finance Act, 1912, to the lessee of free licensed premises to recover a proportion of any increase in licence duty payable under the Finance (1909-10) Act, 1910, from the "grantor" of the lease does not extend to impose any liability upon the person entitled for the time being to the immediate reversion and in receipt of the rent, but the word must be strictly construed as referring only to the original grantor.—*BODEGA CO. v. READ*, *C.A.*, 58; 1914, 2 Ch. 757.

12. *Licence duty—Increase of—Proportion payable by lessor—Expenditure in rebuilding—Consideration for new lease—"Premium" payable by lessee—Surrender value of former lease—Finance Act, 1912, s. 2.*—The lessee of licensed premises in pursuance of an agreement for a new lease for a long term at an increased rent expended a considerable sum in rebuilding them and surrendered the old lease.

Held, that neither the sum so spent nor the surrender value of the old lease was a "premium" payable by the lessee within the Finance Act, 1912, s. 2, thereby making the lessor liable for any proportion of the increase in the licence duty imposed by the Finance (1909-10) Act, 1910.—*KING v. EARL CADOGAN*, *C.A.*, 680.

13. *Licensed premises—Held under lease free from tie—Liability of lessor to pay proportion of increase of duty—Finance (1909-10) Act, 1910 (10 Ed. 7, c. 8), ss. 43, 46—Finance Act, 1912 (2 & 3 Geo. 5, c. 8), s. 2.*—Section 2 of the Finance Act, 1912, provides that where the licensed premises are held under a lease which does not contain any covenant by the lessee to obtain intoxicating liquor from the grantor, the lessee shall be entitled to recover from the grantor a proportion of any increase of the duty payable in respect of the licence under the Finance (1909-10) Act, 1910.

Held, that the appellants could claim from the freeholder a proportion of the increase of duty payable by them in respect of the licence of a public-house sub-let to a tenant, inasmuch as the "lessee" referred to in the section was not limited to a lessee who was the actual holder of the licence.

Decision of Court of Appeal (58 SOLICITORS' JOURNAL, 593; 1914, 3 K. B. 288) reversed.—*WATNEY, COMBE, REID & CO. v. BERNERS*, *H.L.*, 492.

14. *Undeveloped land duty—Agricultural land—Lease made before 30th April, 1909—Power to determine tenancy for certain purposes—Conditional power—Lessor not desirous to resume possession—Finance (1909-10) Act, 1910 (10 Ed. 7, c. 8), s. 17; sub-section 5.—Section 17, sub-section 5, of the Finance (1909-10) Act, 1910, enacts that where agricultural land is at the time of the passing of the Act held under a tenancy originally created by a lease or an agreement made or entered into before 30th April, 1909, undeveloped land duty shall not be charged on the site value of the land during the original term of that lease or agreement while the tenancy continues thereunder; provided that where the landlord has power to determine the tenancy of the whole or any part of the land, the tenancy of the land or that part of the land shall not be deemed for the purposes of this pro-*

vision to continue after the earliest date after the commencement of the Act at which it is possible to determine the tenancy under that power.

Held, that as the respondent company, the lessors, had no *bona fide* intention of using the land for building under the power reserved to resume possession from time to time of such portions of the farm as they might wish to build upon, let by them to a tenant under a lease made before 30th April, 1900, the land was not liable to undeveloped land duty.

Decision of Court of Appeal (58 SOLICITORS' JOURNAL, 137; 1914, 1 K. B. 515) affirmed.—INLAND REVENUE COMMISSIONERS v. SOUTHELD ESTATES CO., *H.L.*, 24; 1915, A. C. 428.

RIVERS:—

Pollution—Polluting liquid proceeding from factories—Proceedings instituted by one sanitary authority against another sanitary authority—Powers of river board—"Persons" against whom proceedings can be taken—Rivers Pollution Prevention Act, 1876 (39 & 40 Vict. c. 75), Part III., ss. 4, 5, 6, 7, 8—Rivers Pollution Prevention Act, 1893 (56 & 57 Vict. c. 31), s. 1.—The West Riding of Yorkshire Rivers Board was, by a Provisional Order, possessed of all the powers and duties of a sanitary authority, and, as plaintiffs, instituted proceedings in the county court, under section 4 of the Rivers Pollution Prevention Act, 1876, against the defendants, a local sanitary authority, for causing to fall or flow, or knowingly permitting to fall or flow or be carried into the river Colne polluting liquid proceeding from certain factories and from manufacturing processes through a sewer alleged to be vested in the defendants. The county court judge held that the defendants had committed an offence within section 4, but the Divisional Court, upholding the contention of the defendants, and dismissing the action, were of opinion that the only persons against whom proceedings could be taken under that section were the traders whose factory or manufacturing process was producing the noxious liquid.

Held, that section 8 of the Act of 1876 gave the plaintiff sanitary authority power to bring the action, and if they could establish that the defendant sanitary authority had committed an offence under section 4, the restrictions placed on the bringing of an action under that section against a trader did not prevent the defendant sanitary authority from being sued. Case remitted to the Divisional Court for the appeal to be dealt with on its merits.

Decision of Divisional Court (58 SOLICITORS' JOURNAL, 434; 1914, 2 K. B. 13, 12 L. G. R. 533) reversed.—WEST RIDING RIVERS BOARD v. LINDTHWAITE URBAN COUNCIL, *C.A.*, 331; 1915, 2 K. B. 436.

SALE OF GOODS:—

1. *C.I.F. contract—Loss of goods in transit—Liability of buyer.*—If a seller under a c.i.f. contract tenders the usual documents within a reasonable time after shipment, the tender is good and the buyer must make payment accordingly, notwithstanding that the goods were lost at the time when such tender was made.—*C. GROOM (LIMITED) v. BARBER, K.B.D.*, 129; 1915, 1 K. B. 316.

2. *Conditions as to resale—Middleman—Contract between purchaser and original vendor—Consideration.*—In 1911 the appellants entered into a contract with D. & Co., the object of which was to secure that the appellants' goods should not be resold by retail shopkeepers at less than current list prices, the consideration given D. & Co. being certain discounts on all trade purchases. In furtherance of this object D. & Co. undertook to get from any purchaser an undertaking similar in terms to that which they themselves gave. In January, 1912, D. & Co. made a contract with the respondents, Selfridge & Co. (Limited), who agreed to be bound by the terms of D. & Co.'s undertaking. By some mistake two tyres were sold by Selfridge & Co. (Limited) to a private customer at less than current list price. The appellants thereupon brought an action against Selfridge & Co. (Limited) claiming an injunction and damages.

Held, that the discounts allowed by the appellants to D. & Co. were no part of the consideration for the contract made between D. & Co. and Selfridge & Co. (Limited), and, therefore, the appellants, being no party in terms to the agreement of January, 1912, it was unenforceable by them, and judgment had rightly been entered for the respondents.

Decision of Court of Appeal (reported 83 L. J. K. B. 923, 110 L. T. R. 679) reversing a decision of Phillimore, J. (1913, W. N. 46), affirmed.—DUNLOP PNEUMATIC TYRE CO. v. SELFIDGE & CO., *H.L.*, 439.

See also Alien Enemy, Prize Law.

SETTLED LAND:—

1. *Capital and income—FRESHOLD ground rents—Costs of survey and notices to repair—"Action taken for protection of settled land"*

—*Power of Court to order costs to be borne by capital—Settled Land Act, 1882 (45 & 46 Vict. c. 38), s. 36.*—A testator settled an estate consisting of a large number of small houses let on long leases at ground rents amounting to £2,100 a year. The trustees incurred an expenditure of £1,100 in having a survey taken and notices of repair served on all the tenants, which notices had been complied with.

Held, that, notwithstanding a direction contained in the will directing that the costs of management of the estate should be paid out of income, the Court in the circumstances had power to order the trustees' costs to be borne by the capital, as being costs of proceedings taken for the protection of the estate under the Settled Land Act, 1882, s. 36.—*RE TUBBS, C.A.*, 508; 1915, 2 Ch. 137.

2. *Tenant for life—Assignment of interest of—Assignment for value—Powers under Settled Land Acts not assignable—Settlement by assignee's will—Death of assignee—Sale by original life-tenant—Persons qualified to consent—Settled Land Act, 1882 (45 & 46 Vict. c. 38), s. 50, sub-section 3, and s. 51.*—Where trustees, in this case trustees of an estate for life in an estate *pur autre vie*, are for the moment, and may be during the whole existence of the assignee's estate, entitled to the whole of the assignee's interest for the purpose of giving effect to the assignee's intention as shewn in his will, they are entitled to give a consent within the meaning of sub-section 3, of section 50, of the Settled Land Act, 1882. The operation of the sub-section is not confined to the case of actual assignees for value, but must be meant to extend to those who would claim under them, for it is clear from section 51 that the Legislature intended that the person who had the powers of a tenant for life must not be deprived of those powers either accidentally or intentionally.—*RE MOUNTGARRET AND MOORE'S CONTRACT, Atbury, J.*, 382; 1915, 1 Ch. 443.

3. *Trust either to retain or sell—Subsequent discretionary power of postponement—Tenant for life—Construction—Whether trust or power—Settled Land Act, 1882 (45 & 46 Vict. c. 38), s. 63.*—Where a testator devised his property to his trustees upon trust either to retain or sell it, and gave his trustees also a discretion to postpone sale, but subsequent directions in the will were directions ordinarily applicable only to proceeds of sale,

Held, that the trust to retain or sell was really, having regard to the rest of the will, a trust to sell, with a power to retain, meaning thereby a power to postpone, and that, accordingly section 63 of the Settled Land Act, 1882, was applicable.

Re Goodall's Settlement, Fane v. Goodall (1909, 1 Ch. 440), distinguished.

Re Cripps, Cripps v. Todd (95 L. T. Rep. 865), applied.—*RE JOHNSON, COWLEY v. PUBLIC TRUSTEE, Atbury, J.*, 333; 1915, 1 Ch. 435.

SETTLEMENT:—

1. *Estate duty—Trust for sale—Exercise of general power of appointment by will—Conversion—"Property passing to executor as such"—Finance Act, 1894, s. 9.*—By a marriage settlement land was conveyed upon trust for sale and to hold the proceeds upon trust for such persons as the settlor should by deed or will appoint. The settlor exercised the power by her will appointing the property, the bulk of which remained unsold, to her husband for life with remainder over.

Held (reversing Eve, J.), that the appointed property having been notionally converted passed to the executors as such, and that the estate duty thereon was payable out of the residuary personal estate.—*RE O'GRADY, C.A.*, 332; 1915, 1 Ch. 613.

2. *Limitation of real estate to use of trustees and their heirs—Power to tenant for life to appoint among children—Appointment of "trust funds and property" to sons without words of limitation.*—Although an equitable fee simple does not pass as a rule without proper words of limitation, the intention of the whole deed must be taken into consideration, and accordingly, where the personality was passed absolutely by the gift in the deed, the Court held that an intention had been shewn to pass the equitable fee simple in the realty.—*RE NUTT'S SETTLEMENT, Neville, J.* 717.

3. *Policy—Husband's life premiums paid by wife—No request either by the husband or the trustees—Lien—Power of appointment—Appointment by deed—Limited power—Revocation and release—Avowed object of obtaining benefit—Validity.*—Where a wife, by reason of the impecuniosity of her husband, paid the premiums on the policies on his life to prevent the policies from lapsing, it was held that she could not be recouped for such payments out of the policy moneys on his death.

Re Leslie, Leslie v. French (1883, 23 Ch. D. 552), applied.

Though the donee of a power may release it with the object of obtaining a benefit, yet a power of revocation is as fiduciary as

the original power, and cannot be exercised with the object of obtaining a benefit.

Re Somes, Somes v. Somes (1896, 1 Ch. 250), distinguished.—*RE JONES' SETTLEMENT, Athbury, J.*, 364; 1915, 1 Ch. 373.

4. *Power of appointment—Remoteness—Income of fund set aside to go to make up share of lunatic son to £200 a year—Trustees' uncontrolled discretion.*—Where, in exercise of a power of appointment in a settlement, the testatrix by her will appointed two-fifths of certain trust funds to be paid to two of her sons upon trust to stand possessed of the same until her lunatic son should die or be certified to be capable of managing his own affairs, and to apply the whole or so much of the income of the two thirds as should be required for making up the total income of the lunatic son to £200 a year, in such a manner as they should think fit, with provision as to the residue.

Held, that, as the amount of the interest depended on the amount of the lunatic son's income in each year, the interest was contingent, and did not vest on the death of the testatrix, and the trusts as regards the two-fifths share were inoperative and void for remoteness.—*RE WHITEFORD, Neville, J.*, 272; 1915, 1 Ch. 347.

SHIPPING:—

1. *Cargo—Loss by fire—Unseaworthiness of ship—"Actual fault or privity" of owner—Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), s. 502.*—A cargo of benzine was carried on board a ship, and was destroyed by fire, the cause of the loss being the stranding of the ship, occasioned by the unseaworthiness of her boilers and her consequent inability to keep up steam. The indorsees of the bills of lading sued the shipowners for non-delivery of the cargo, and, in defence, the defendants pleaded section 502 of the Merchant Shipping Act, 1894.

Held, that the shippers were not entitled to the protection of the section, since the loss had not happened without their "actual default or privity."

Decision of Court of Appeal (57 SOLICITORS' JOURNAL, 784; 1914, 1 K. B. 419) affirmed.—*LENNARD'S CARRYING CO. v. ASIATIC PETROLEUM CO., H.L.*, 411.

2. *Merchant ship—Seamen—Wages—Detention of ship in enemy port on outbreak of war—Internment of seamen—Owner's liability for wages—Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), ss. 134, 158.*—Where a British ship is in an enemy port on the outbreak of war and is detained, but is not confiscated or requisitioned by the authority of the Government, and the crew are interned, the ship is not "lost" within the meaning of section 158 of the Merchant Shipping Act, 1894, and the seamen's contracts of service are not determined, and the shipowner is liable, under section 134 to pay the wages of the crew during such internment.

So held (Phillimore, L.J., dissenting), affirming a decision of Rowlatt, J. (reported 1915, 3 K. B. 203).—*BEAL v. HORLOCK, C.A.*, 716.

3. *Salvage—Claim against cargo—Agreement to tow on the terms of "no cure, no pay, no salvage charges"—Protection of seamen against abandonment of right of salvage—Merchant Shipping Act 1894 (57 & 58 Vict. c. 60), s. 156.*—A contract was made between the owners of a tug and the owners of a vessel that the vessel should be towed on the terms of "no cure, no pay, no salvage charges." While the vessel was being towed she got into danger, and salvage services were rendered by the tug to the ship and cargo. The question having arisen whether or not the tug owners could claim salvage remuneration from the cargo owners, the latter moved to have all proceedings stayed on the ground that, by the terms of the contract, no claim for salvage services could be maintained. The question was ordered to be tried as a point of law. The President held that the tug owners were not precluded from recovering salvage remuneration.

The Court of Appeal dismissed an appeal by the shipowners from that judgment.

Decision of the President (reported 1915, P. 90) affirmed.—*THE LEON BLUM, C.A.*, 692.

4. *War—Charter-party—Marine insurance—War risk for charterers' account—Charterers duty to insure.*—A charter-party provided that the shipowners were to pay and provide for insurance, that the charter-party was not to be construed as a demise of the ship, and that the owners were to remain responsible for insurance. The charter-party also contained the following written clause: "War risk, if any required, for the charterers' account. It is understood and agreed that value for war risk at all times to be based on values stated in owners' annual policy." The ship was sunk by a German cruiser. In an action by the shipowners against the charterers to recover damages for the defendants' failure to insure,

Held, that the defendants were liable.—*HOLLAND GULF, &C. v. WATSON & CO., K.B.D.*, 458.
See also *Prize Law*.

SHOPS:—

Weekly half-holiday—Automatic machine—Trading elsewhere than in shop—Shops Act, 1912 (2 Geo. 5, c. 3), ss. 4, 9.—A dairyman supplied milk during the weekly half-holiday by means of an automatic machine affixed to the door at the entrance of his shop, the reservoir from which the milk was drawn being inside the shop.

Held, that there was no contravention of sections 4 and 9 of the Shops Act, 1912.—*WILLEDEN URBAN COUNCIL v. MORGAN, K.B.D.*, 148; 1915, 1 K. B. 349.

SOCIETY:—

Right to sue—Underlease to society—Forfeiture of head lease—Claim of society to a vesting order—Conveyancing Act, 1892 (55 & 56 Vict. c. 13), s. 4.—A member of an unregistered society purported to take an underlease for and on behalf of his society. On the head lease being forfeited for breach of covenant the trustees of the society, suing on behalf of the members, brought this action for an order vesting the premises in them for the residue of the term of the underlease under section 4 of the Conveyancing Act, 1892.

Held, that the plaintiffs were not entitled to sue.—*JARROTT v. ACKERLEY, Eve, J.*, 509.

SOLICITOR:—

1. *Bill of costs—Appeal from judge in chambers—Appeal to Divisional Court—Practice and procedure—Jurisdiction—"Agreement" between solicitor and client—"Payment" of costs—Judicature Act, 1894 (57 & 58 Vict. c. 16), s. 1, sub-section 4—Attorneys and Solicitors Act, 1870 (33 & 34 Vict. c. 28), ss. 4, 8, 9, 10.*—One C., with a view to his defence in a criminal court, made an agreement with the respondent, a solicitor, as follows: "I retain and request you to defend me in the criminal proceedings . . . and I agree that you shall receive the net proceeds of sale of furniture amounting to £436 17s. to recover the law charges and disbursements of my defence." C. was convicted and sentenced. Civil proceedings were also pending, and C. retained the respondent under a written agreement at a fee of 100 guineas, which the respondent acknowledged to have received. In fact, he had collected £100 owing to C. without C.'s knowledge. The appellant, his administrator under the Felony Act, 1870, took out a summons before the Master to set aside these agreements, and for the delivery of a bill of costs. The order was made by the Master but rescinded by the judge in chambers. The appellant appealed.

Held, that the Divisional Court had jurisdiction to hear the appeal as a final order, and that it did not lie to the Court of Appeal as a matter of practice and procedure.

Held, further, that the criminal retainer was not an agreement for payment within the meaning of section 4 of the Attorneys and Solicitors Act, 1870, but only cover; and that on the civil retainer there must be an inquiry whether there had been payment in fact.—*RE T. H. JACKSON (A SOLICITOR), K.B.D.*, 272; 1915, 1 K. B. 371.

2. *"Cash account"—Practice on taxation—Solicitor acting for client in various capacities—Number of credit items entered as "cash"—Alleged insufficient identity—Meaning attributed to "cash" in such accounts—Liability on solicitor to furnish particulars only when vouching his account.*—A solicitor acted for a client in the administration of her father's estate and business. He also acted as her personal solicitor and professionally in other family matters with which she was concerned. In a cash account which the solicitor delivered several items appeared as "cash" merely. The client claimed that a further and better "cash account" should be rendered, alleging that the items in question were insufficient to enable her to identify the payments so as to appropriate them to the different accounts, but the application was refused by the judge in chambers.

Held, that as it was the practice of the taxing officers to accept cash accounts in this form, subject to there being properly vouched at a later date, and it was shown that justice could thus be done between the parties, the refusal of the application was a matter of discretion, and the Court would not interfere with the order made by the judge in chambers.—*RE ORLANDO G. HARMAN, C.A.*, 351.

3. *Principal and agent—Order for goods given by solicitor on behalf of client—personal liability of solicitor.*—The defendant, who was a solicitor, ordered from the plaintiff, a photographer, certain photographs, to be used in connection with a trial for manslaughter in which the defendant was acting on behalf of the

person accused. At the time the goods were ordered the plaintiff was aware that the defendant was acting on behalf of his client. In an action by the plaintiff against the defendant to recover the price of the photographs.

Held, that the transaction was not a cash transaction of such a nature that it would be assumed that the defendant had no authority to pledge the credit of his client, and that the defendant was not liable.—*WAKEFIELD v. DUCKWORTH, K.B.D.*, 91; 1915, 1 K. B. 211.

See also Bankruptcy, Costs.

SUNDAY:—

Refreshment house keeper holding excise licence—Sale of ice cream—Sale of "meat"—Exemption from Sunday Observance Act, 1677.—A person keeping a refreshment house and holding an excise licence is not thereby exempted from the provisions of the Sunday Observance Act, 1677. The meaning of the word "meat" in section 3 of the Act discussed.—*AMORETTE v. JAMES, K.B.D.*, 162; 1915, 1 K. B. 124.

See also Practice.

SUPERANNUATION:—

Superannuation—Officer of borough council—"Designated an officer in an established capacity"—Absence of special resolution—Superannuation (Metropolis) Act, 1866 (29 Vict. c. 31), ss. 1, 4—St. Marylebone Borough Council (Superannuation) Act, 1908 (8 Ed. 7, c. xvi.), s. 2.—Questions having frequently arisen as to what officers and servants employed by the St. Marylebone Borough Council were entitled to retiring allowances, an Act was obtained which contained the following definition: "Officer" means any officer in the service of the council designated an officer in an established capacity by a resolution of the council passed or to be passed.

The plaintiff, who for thirty-seven years had held the office of certified bailiff to the council, on retiring claimed superannuation allowance.

Held, that he was not entitled to it since "designated" meant "specially described as," and in the absence of a special resolution designating him as an officer in an established capacity he was not entitled to a pension under the Act.—*NEWTON v. MARYLEBONE BOROUGH COUNCIL, C.A.*, 493.

TENANT FOR LIFE AND REMAINDERMEN.—See Administration, Settlement.

TRADE-MARK:—

1. *Disclaimer of use of word in—Label—Custom of the registry—Trade-Marks Act, 1905 (5 Ed. 7, c. 15), s. 9, sub-sections 4 and 5, and s. 15.*—Where it is clear that the registration of a trade-mark would not give to the applicant therefor any exclusive right to the use of a particular word in that trade mark, the Registrar should not exercise the discretion given to him by section 15 of the Trade-Marks Act, 1905, to impose on the applicant a disclaimer of that word as a condition of registration.

Unnecessary disclaimers should not be placed on the register because they might have the mischievous effect of leading commercial men to think that they could make free use of the word disclaimed without regard to the possible common law, as distinct from the statutory, rights of the person disclaiming.

The condition of disclaimer is one for the imposition of which some good reason ought to be adduced.

Re Albert Baker & Co.'s Application (1908, 2 Ch. 86) approved.—*RE CADBURY BROS., Sargant, J.*, 598.

2. *Distinctive word—Name of foreign town in foreign language—"Berna"—Registration—Special application—Trade-Marks Act, 1905 (5 Ed. 7, c. 15), s. 9, sub-section 5.*—The word "Berna," which is the Spanish and Italian name for Berne, the capital of Switzerland, is not objectionable as a trade-mark on the ground that it is the name of a well-known city, particularly having regard to the extent to which its user in the past had rendered it distinctive of the applicants' goods; nor is it objectionable on the ground that it is calculated to mislead people into the belief that the goods are made in Switzerland; nor yet on the ground that some of the rights to use the word in foreign countries have been sold.—*RE BERNA COMMERCIAL MOTORS, Sargant, J.*, 316; 1915, 1 Ch. 414.

3. *Registration—Get-up of mark—Sufficiency of similarity to lead to deception—Part of mark common to the trade—Efficiency of disclaimer of use of part common to trade per se—Trade-Marks Act, 1905 (5 Ed. 7, c. 15).*—Where a certain maker's gin was known to the trade as "Cat Brand," and there was evidence that a cat per se was a mark common to the trade of gin-makers,

Held, that the Court ought not to allow registration of a mark somewhat similar to the mark used by the owners of the "Cat Brand" on the applicants for such registration disclaiming the use of the cat per se.—*RE BAGOTS, HUTTON & Co., Neville, J.*, 59.

4. *Registration—Statutory declarations filed pursuant to the Trade-Marks Act—Must they be verified by affidavit?—Trade-Marks Act, 1905 (5 Ed. 7, c. 15), ss. 9 (5), 12, 49 and 59.*—Statutory declarations filed for use before the Registrar may, in certain circumstances, be used on a motion in the Chancery Division made under rule 39 of the Trade-Mark Rules, 1906, in lieu of the usual affidavit evidence for the purpose of saving expense.—*RE CADBURY BROS., Neville, J.*, 58.

5. *Registration of a surname—"Cadbury"—Public knowledge—Spirit of the Legislature—Reference by Board of Trade to the Court—Trade-mark "adapted to distinguish"—Order of Board of Trade—Trade-Marks Act, 1905 (5 Ed. 7, c. 15), s. 9 (4) (5).*—Although there is authority for saying that a surname is unsuitable for registration as a trade-mark, and the Court has a discretion in such cases to refuse registration, yet the exercise of this discretion must not conflict with the meaning of the Legislature.

Where the name in everybody's mind refers to the goods of one firm, whether this has been brought about by the use of the name as a trade-mark or the direct representation that the goods were made by that firm, such name is "distinctive" within the meaning of that word as used in section 9, sub-section 5, of the Trade-Marks Act, 1905.—*RE CADBURY BROS., Neville, J.*, 161; 1915, 1 Ch. 331.

6. *Removal from register—Prince of Wales' Feathers—Contrary to law—Calculated to deceive—Person aggrieved—Trade-Marks Act, 1905 (5 Ed. 7, c. 15), ss. 11, 35, 68.*—Three old trade-marks, consisting principally of the Prince of Wales' Feathers, were registered many years before the Trade-Marks Act, 1905, and had been used ever since. On a motion to remove the marks from the register on the ground that they were contrary to law and calculated to deceive,

Held, that there was nothing in the use of the marks to suggest to any reasonable person that the proprietors were holders of a Royal Warrant, that they were not calculated to deceive, and that having been lawful marks when put on the register they ought not to be removed.—*RE IMPERIAL TOBACCO COMPANY'S TRADE-MARK, C.A.*, 456; 1915, 2 Ch. 27.

TRADE UNION:—

1. *Expulsion of member—Action by member for injunction and damages—Construction of rules—"Conduct calculated to damage the character and reputation of the society"—Trade Union Act, 1871 (34 & 35 Vict. c. 31), s. 4, sub-section (1).*—The plaintiff, a printer's assistant and a member of the defendant union, worked at a newspaper printing office at night. During the daytime he also worked for a firm of carriers. On this becoming known to the union they expelled him for "misconduct calculated to damage the character and reputation of the society." The act of misconduct alleged against the plaintiff was not specifically mentioned in the rules, but one rule provided that no member should work more than twelve hours a week overtime. In an action in the county court the plaintiff obtained a declaration that the resolution expelling him was *ultra vires* and void, and an injunction with damages for £68. The defendants appealed on the ground that the society was unlawful, as being in restraint of trade, and that the action was brought on an agreement made non-enforceable by section 4 of the Trade Union Act, 1871.

Held, on this point, affirming the decision of the Divisional Court, that the society was a society in restraint of trade, but that the action was not brought for the purpose of enforcing such an agreement as was barred by section 4 of that Act; but reversing the judgment appealed from so far as it gave the plaintiff damages, on the ground that as a member he could not sue for damages for breach of contract the members of his own union, nor could he recover in tort against them.

Order of county court varied and appeal dismissed with costs.—*KELLY v. NATIONAL SOCIETY OF PRINTERS, C.A.*, 716.

2. *Trade dispute—Dispute between employer and other employers—Trade Disputes Act, 1906 (6 Ed. 7, c. 47), ss. 3, 5 (3).*—The Transport Workers' General Union, of which the union dock labourers were members, ordered the stevedores of the Port of Dublin to pay the dock labourers higher wages. This the stevedores were unable to do unless they were in a position to get from the shipowners a higher scale of pay. With a view of imposing such terms on the shipowners they joined the Stevedores' Association. The plaintiff L., a stevedore, having refused to join the association, his men, while unloading a ship, were called off by the union, and thereby L. suffered loss.

In an action by L. against certain officials of the union, the defence set up was that the acts complained of were acts done in contemplation or furtherance of a "trade dispute," and were by section 3 of the Trade Disputes Act, 1906, not actionable.

Held, following *Quinn v. Leatham* (1901, A. C. 495), that the defence given by section 3 of the Act did not apply. A trade dispute by section 5 (3) was defined as "any dispute between employers and workmen or between workmen and workmen," and this dispute was one between stevedores who were employers.

Per Lord Parker: To hold that every dispute in which officials of the union chose to interfere was thereby rendered a trade dispute would be unduly to extend the immunity from liability conferred by the Trade Disputes Act, 1906, and therefore unduly to curtail the common law rights of other persons.

Decisions of Court of Appeal (Ireland) (reported 1914, 2 Ir. R. 285) affirmed.—*LARKIN v. LONG*, *H.L.*, 455; 1915, A. C. 814.

TRADING WITH THE ENEMY.—See Alien Enemy, Criminal Law, Prize Law, Probate.

TRUST:—

1. *Doubt as to identity of persons entitled—Payment into Court—Executrix wrongly described in probate—Other claimants—Duty of trustees—Costs of trustees on payment out.*—Where trustees paid a fund into Court to which a certain testator was entitled who had left it to one H. D. absolutely, and H. D. was described in the probate of the testator's will as H. D., the widow of the testator, when, in fact, although the testator had gone through a form of marriage with H. D., his wife was still alive, and his wife and child both made claims to the fund and the trustee paid it into court.

Held, on a summons for payment out, that they were to be allowed their costs of the summons.—*RE DAVIES TRUSTS*, *Neville*, J., 234.

2. *Trust funds paid into general banking account—Mixing of trust funds with private moneys—Charge for trust funds on ultimate balance of account.*—The plaintiff company sold its business to A., who agreed to get in certain book debts and pay them over to the plaintiff company. A. got in a certain portion of these book debts, and paid them into his private general account to an amount of £455 18s. 11d. He applied all this money, with the exception of £25 18s., for his own purposes during the two days after he paid it in; but he subsequently paid other moneys of his own into the account, the balance of which moneys were now in the hands of the defendant, who was a trustee of A.'s property under an administration order in bankruptcy. The bank balance stood at his death at £358 5s. 5d., on which sum the plaintiff company now claimed a charge.

Held, that the account not being a trust account, it was impossible to attribute to A. that by the mere payment into the account of further moneys he intended to clothe them with a trust for the plaintiff company, and accordingly the only part of the balance which could be taken by the plaintiff company was a sum of £25 18s.

Re Hallett's Estate, *Knatchbull v. Hallett* (1889, 13 Ch. D. 696), distinguished.—*JAMES ROSCOE (LIMITED) v. WINDER*, *Sargant*, J., 105; 1915, 1 Ch. 62.

TRUSTEE:—

New trustee—One cestui que trust in disagreement with trustees—Exercise of power to appoint—Appointment of solicitor or donee of power—Scheme for maintenance of the children settled by the Court—R.S.C., ord. 55—Surviving trustee husband of cestui que trust other than children—Objection to the appointment of his solicitor—Court will not declare appointment invalid.—It is not a bad exercise of a power to appoint new trustees to appoint a person as trustee who is objectionable to some of the *cestuis que trust*.

Re Skeats Settlement (1889, 42 Ch. D. 522) is not an authority for the contrary proposition.

The rule which prevents a power of appointing new trustees being exercised without the approval of the Court, when there is a general order for administration, does not apply when there is an order for partial administration.

Although the Court will not appoint the solicitor of one of the parties a trustee, the tenant for life can do so.

The appointment by the surviving trustee of his solicitor, who was objected to by some of the *cestuis que trust*, was not legally invalid, and the Court could not remove him.

Re Earl of Stamford (1896, 1 Ch. 288) applied.—*RE COTTER*, *Asbury*, J., 177; 1915, 1 Ch. 307.

VAGRANCY:—

Street begging—Collection for trade union—Vagrancy Act, 1825 (5 Geo. 4, c. 83), s. 3.—The Vagrancy Act, 1824, s. 3, imposes

a penalty on any person who places himself in any public place to beg or gather alms.

Held, that it was not an offence under the section for a trade unionist to solicit funds for the union in the street during a strike, as the soliciting was for a charitable purpose.

Pointon v. Hill (12 Q. B. D. 306) discussed.—*MATHERS v. PENFOLD*, *K.B.D.*, 235; 1915, 1 K. B. 514.

VENDOR AND PURCHASER:—

1. *Conditions negating compensation—Conveyance—Parcels—Plan—Falsa demonstratio—Implied covenants for title—Omission to prevent acquisition of title under Statute of Limitations—Liability of vendor—Damages—Conveyancing and Law of Property Act, 1881 (44 & 45 Vict. c. 41), s. 7, sub-section 1 (a).—Description of property as B. H. Farm, in the occupation of certain tenants, with correct measurements added.*

Held, restoring the judgment of Sargant, J. (1913, 2 Ch. 39), that, on the true construction of the conveyance, a small strip of land which had formerly formed part of B. H. Farm, but as to which it was admitted, for the purposes of this action, that at the date of the conveyance an adverse title under the Statute of Limitations had been acquired by adjoining owners, could not be rejected as *falsa demonstratio*, and was included in the conveyance.

Decision of Court of Appeal (58 SOLICITORS' JOURNAL, 152; 1914, 1 Ch. 68) reversed.—*EASTWOOD v. ASHTON*, *H.L.*, 560.

2. *Legacies charged on land—Sale of part of land—Purchase money paid to trustee—Receipt.—Trustees contracted to sell certain land which, together with other trust property, was charged with the payment of certain legacies, the unpaid balance of which amounted to £16,000. The whole of the purchase money (£3,000) was paid to the trustees. The purchaser objected that a good title could not be made without payment to the trustees of the full balance of £16,000.*

Held, that the vendors could make a good title without such payment.—*RE MORRELL AND CHAPMAN'S CONTRACT*, *Eves*, J., 147; 1915, 1 Ch. 162.

WAR:—

1. *Alien enemy—Enemy property—Application by trustee in bankruptcy of English mortgagor for vesting order—Trading with the Enemy Amendment Act, 1914 (5 Geo. 5, c. 12), ss. 1, 2, 3, 4, and 5.—The trustee in bankruptcy of a firm for whom an alien enemy was in the habit of accepting bills for their accommodation applied, under section 4 of the Trading with the Enemy Amendment Act, 1914, for an order that certain policies of assurance, some of which had matured, and which the alien enemy alleged he held as security, and which he claimed, but which were, in fact, the property of the firm, might be vested in the Custodian under the Act.*

Held, (1) that the Act was only concerned with alien property, and these policies were not such; (2) that the applicant had no *locus standi* to make the application; (3) that even if the enemy had a lien or charge on the policy moneys which might be the subject of a vesting order under the Act, the applicant was not interested in that lien or charge, his interest being against and in derogation of the alleged lien or charge; (4) the Act must not be used as a convenient medium for the recovery of the property of the bankrupts which, so long as the war lasts, the trustee cannot recover for himself.—*RE RUBEN*, *Younger*, J., 704.

2. *Contract—Arbitration—Sale and purchase of sugar—On break of war—Issue whether the contracts were suspended during the war or had been dissolved—Right of plaintiff to have such issue decided by the Court.—The plaintiffs claimed a declaration that certain contracts entered into with a German firm for the supply and delivery by the latter of a quantity of beet sugar were suspended on the outbreak of war between Great Britain and the German Empire, or alternatively a declaration that the contracts were dissolved on the outbreak of the war.*

The defendants applied for an order that the action be stayed under section 4 of the Arbitration Act, 1889. The master made no order on the summons. On appeal to Scrutton, J., he made an order dismissing the appeal, but granted leave to appeal, as *Warrington, J.*, in *Smith, Coney & Barrett v. Becker, Gray, & Co.* (31 T. L. R. 59), had decided, under similar circumstances, that the defendants were entitled to go to arbitration.

Held, that, as the real question was whether the contracts were suspended during the war, or had been dissolved, and this was a question of law, the question before the Court, whether the action should be stayed, was a question for the discretion of the Judge, his discretion could not be interfered with, and the appeal failed.—*GREY & Co. v. TOLME*, *C.A.*, 218.

WATERWORKS:—

Supply of water—Restaurant—Option of the board to supply by meter—Trade or manufacturing purposes—Domestic purposes—Metropolitan Water Board (Charges) Act, 1907 (7 Ed. 7, c. clxxi.), ss. 8, 16, 20 and 25.—Section 20 of the Metropolitan Water Board (Charges) Act, 1907, which says that the board are not "bound to afford a supply of water otherwise than by measure to any house or building whereof any part is used for any trade or manufacturing purpose for which water is used" is a section addressed to the character of the house, and not to the purposes to which water is put; and accordingly the decisions as to the meaning of the words "any trade, manufacture or business" in section 25 of the said Act are not applicable in construing section 20, for the test which applies in defining the words in section 25 is not whether the water is consumed in the course of trade, but whether the use of the water is in its nature domestic.

Held, that the defendants were not bound to afford a supply of water to a restaurant otherwise than by measure.

Metropolitan Water Board v. Avery (1914, A. C. 118) and *Fredrick v. Bospor Water Works Co.* (1909, 1 Ch. 149) distinguished.—*ODDENINO v. METROPOLITAN WATER BOARD, Sargant, J.*, 129; 1914, 2 Ch. 734.

WILL:—

1. *Annuities charged on settled real and personal estate—Deficiency of income—Deficiency payable out of corpus—Recoupment.*—Where annuities are charged on settled real and personal estate, and the income is not enough to pay them in full, the deficiency must be paid out of corpus, and the tenant for life cannot be called upon to recoup the corpus out of future income.

Playfair v. Cooper (17 Beav. 187) followed.—*RE CROXON, Eve, J.*, 693.

2. *Attestation—Soldier on actual military service—Gift to one of two witnesses—No attestation clause—Validity—Wills Act, 1837 (1 Vict. c. 26), ss. 11 and 15.*—A lieutenant, who was mortally wounded by a fanatic in the camp, at a time when he was engaged with his regiment in delimitation operations shortly after a frontier expedition, dictated his will while actually dying.

Held, that he was on "actual military service" within the meaning of section 11 of the Wills Act, 1837, for the purpose of making a soldier's will.

A soldier's will made under section 11 of the Wills Act, 1837, and requiring no attestation, was, in fact, attested by two persons, to one of whom a gift had been made in the will by the soldier testator.

Held, that section 15 of the Wills Act, 1837, did not apply to a will so made, and that the gift was valid.—*RE LIMOND, Sargant, J.*, 613; 1915, 2 Ch. 240.

3. *Charitable bequest—Debentures of Australian Land Company—Charge on real and personal property—Leasehold office in London of small value—"Interest in land"—Mortmain and Charitable Uses Act, 1888 (51 & 52 Vict. c. 42), ss. 4, 10.*—A testator, who died before the passing of the Mortmain and Charitable Uses Act, 1891, bequeathed so much of his residuary personal estate as could lawfully be applied to charitable purposes to two charities, subject to a life interest. Part of his residuary estate consisted of money secured by the debentures of two Australian land companies, whose only property in England were their leasehold offices in London, of comparatively small value. By Australian law money secured on land could be validly given to a charity.

Held, affirming *Neville, J.* (ante, p. 249; 1915, 1 Ch. 168), that the companies' offices were "interests in land," charged by the debentures, and that as there could be no apportionment, the charities could not receive any part of the proceeds of the debentures.

Brook v. Badley (L. R. 3 Ch. 672) applied.

Re Hill's Trusts (16 Ch. D. 172) overruled.—*RE DAWSON, C.A.*, 363; 1915, 1 Ch. 626.

4. *Charitable trust—Residue for ladies of limited means—Trustees to expend residue "as they know to be most in agreement with my desires"—Parol evidence—Sufficiency—Secret trust—Communication to one of two trustees—Trustee a beneficiary.*—A testatrix, after directing that a temporary house of residence for ladies of limited means should be maintained out of the funds realized by the sale of her real and personal estate, appointed Dr. Le P. and W. Le P. (his daughter) executors of her will, and directed that they should "expend all or any of the residue of my estate in such manner as they know to be most in agreement with my desires."

In an action commenced by originating summons, to which the Attorney-General and the next of kin were defendants, it was held by *Eve, J.*, that the charitable trust was a valid trust, that evidence by Dr. Le P. that the testatrix had expressed her intention

of leaving by will money to his three daughters was admissible to prove the particular manner in which the testatrix desired the residue to be disposed of, and that when he and his daughter, W. Le P., subsequently were appointed executors, the estate was impressed with a trust as to the residue in favour of the three ladies.

The next of kin appealed, the three daughters and Dr. Le P. being the only respondents to the appeal.

The Court of Appeal, reversing the decision of *Eve, J.*, on this point (the next of kin not disputing that the decision on the first point was right), held that the plaintiffs had failed to establish by their evidence the existence of any trust in favour of the three ladies. From that decision the appellants appealed to this House.

Their lordships dismissed the appeal with costs.

Decision of Court of Appeal (1914, 1 Ch. 662) affirmed.—*L.E. PAGE v. GARDOM, H.L.*, 599.

5. *Construction—Annuities—Accumulation of surplus income till death of last annuitant—Accumulations Act, 1800 (39 & 40 Geo. 3, c. 98)—Accumulations beyond the statutory period—Undisposed of or caught by residuary gift—Claimant to residue unknown till death of last annuitant.*—A testator gave five annuities to be paid "out of the residuary estate and my bank shares" and "subject as aforesaid" directed the surplus income to be accumulated until the death of the last annuitant, and disposed of the residue. One annuitant lived beyond the period of accumulation allowed by the *Thellusson Act*.

Held, that there was an intestacy as to the income accumulated beyond the period.

Re Pope (1901, 1 Ch. 64) not followed on the question of the bank shares.—*RE CABABE, Neville, J.*, 129.

6. *Construction—Class—Children at twenty-one—Two tenants for life each of half the income of the fund—Death of one tenant for life—Attainment of twenty-one by one child—Period of ascertaining the class—Maintenance—Accumulations.*—A testator gave his residue upon trust as to the annual income thereof in equal moieties to J. for his life, and to E. for his life, and subject thereto as to capital and income for the children of J. and E. who should attain twenty-one in equal shares *per capita*, with provision for maintenance, and that accumulations of surplus income should follow the destination of the capital. The two tenants for life both survived the testator, and each had two infant children living at his death. J. died in 1899, leaving a widow and two infant children, one of whom attained twenty-one in 1912. E. was still alive, aged seventy, and had two infant children.

Held, that the children who attained twenty-one were not entitled to call for the capital of their shares, the rule in *Andrews v. Partington* (1791, 3 Bro. C. C. 401) not being applicable, as the period of distribution of the whole fund had not yet arrived, and that it were made applicable to half the fund, and another child were born, the children might take the different shares, which would be contrary to the testator's intention.

Re Holford, Holford v. Holford (1894, 3 Ch. 30), applied.—*RE FAUX, Astbury, J.*, 457.

7. *Construction—Devise to A. "or his issue"—Words of limitation or substitution—Estate tail.*—The rules that a devise to "A. or his heirs" gives to A. an estate in fee simple, and that a devise to "A. or the heirs of his body" gives to A. an estate tail, still continue, and have not been altered in modern times in cases of wills coming into question since the *Wills Act*.—*RE CLERKE, Eve, J.*, 667.

8. *Construction—Gift of freehold—"Free of any incumbrances"—Mortgage—Estate duty—Succession duty—Incidence.*—A testator by his will devised a freehold house "free of any incumbrances" to the vicar and churchwardens of St. M. as a vicarage or clergy-house. The title deeds had been deposited with a bank to secure an overdraft.

Held, that the devisees were entitled to take the devised property free of estate and succession duties.—*RE NESFIELD, Joyce, J.*, 44.

9. *Construction—Gift of residue in will—Gift in codicil of residue "not bequeathed by will"—Revocation.*—A testator by his will gave his residuary estate to certain charities. By a codicil he made the following bequest:—"The residue of my estate not bequeathed by the above will I give and bequeath to M. L. absolutely."

Held, that the codicil did not revoke the gift of the whole residue given by the will, but only gave to M. L. such part of it as failed to reach its destination by reason of lapse or otherwise.—*RE STOODLEY, Eve, J.*, 681.

10. *Construction—Gift of "the rest of the money of which I die possessed"—Freehold house subject to power of appointment—Whether house passed under gift of "money."*—A testatrix who had

a general power of appointment over a freehold house, which she did not exercise, gave "the rest of the money of which I die possessed" to Truro Cathedral.

Held, that the freehold house did not pass under the bequest of "the rest of the money of which I die possessed."—*RE TRIBE, Eve, J.*, 309.

11. *Construction—"Hotspot" clause—"All sums . . . in default of direction to the contrary"—Settlement on marriage of the son—Covenant by testator in settlement to pay £300 per annum—Followed by direction that such sums are not to be brought into account by son—Codicil after date of settlement confirming will—Wills Act, 1837 (7 Will. 4 and 1 Vict. c. 26).—Where a will provided that moneys given by the testator to any child "on his or her marriage or otherwise for his or her advancement or establishment in life" should "in default of any direction to the contrary in writing under my hand" be taken in or towards satisfaction of the child's share of residue, and "brought into hotspot and accounted for accordingly," and subsequently on the marriage of a child an annual sum was given "not to be taken in satisfaction of any share" in residue, and the testator, after the date of the settlement, made a codicil by which he (*inter alia*) confirmed his will.*

Held (1), that the hotspot clause was not invalid as being contrary to the provisions of the Wills Act, 1837, since on one construction it only required to be brought into hotspot sums answering a particular description—i.e., sums "as to which" there was no provision to the contrary, and accordingly that these moneys under the settlement were not subject to the clause. (2) That the confirmation of the will by a codicil of later date than the date of the settlement shewed the testator's intention to be that these sums should not be brought in.

Clause 27 in Key and Elphinstone's Precedents in Conveyancing, Vol. II, p. 892, 10th ed., considered.—*RE ARBUTHNOT, Sargent, J.*, 398; 1915, 1 Ch. 422.

12. *Construction—"House and land now in occupation of R."—Parcels different from description in a lease—Extra piece of land included in lease.—A gift by a testator of the net income from "a house and land known as No. 41, S—Street, now in the occupation of R."*

Held, to include the income arising from a piece of land at the rear of No. 41, not originally occupied with the premises, but leased twelve years ago by the testator, together with No. 41, to R.—*RE FULLER, Neville, J.*, 304.

13. *Construction—Implication of gift of income—Gift to children of niece—If no children gift over to children of another niece—Remoteness—Double possibilities—Severability.—Where there are life gifts to nephews and nieces and their spouses and gifts over to their children, in determining whether the gift over to the children of one niece in the event of another niece dying childless or her children not attaining a vested interest, is good or void for remoteness, the proper method is to concentrate one's attention exclusively on the particular *propositus* indicated by the will, and not to enter into possible conjectures as to the date of the birth of the husband or wife of that *propositus*.*

Re Park's Settlement, Foran v. Bruce (1914, 1 Ch. 595), explained.—*RE BULLOCK, Sargent, J.*, 441; 1915, 1 Ch. 493.

14. *Construction—Investment—Power to retain—Meaning of "investments"—Money on deposit with an industrial firm.—A testator by his will declared that "any moneys liable to be invested under this my will may remain invested as at my death." The testator's estate included a sum of £2,900 on deposit with an industrial firm in whose employment the testator had been for many years.*

Held, that the money could not be treated as "invested," and consequently the trustees could not allow the same to remain on such deposit.—*RE SUDLOW, Eve, J.*, 162.

15. *Construction—Joint tenancy or tenancy in common—Children to be paid their parents' share—Effect of word "pay" on joint tenancy.—A testator gave leasehold property to his nephews and nieces as tenants in common, and in case of the death of one or more of them he directed that the child or children of such one or more of his nephews and nieces so dying should be paid a parent's share.*

Held, that the children took their parents' share as joint tenants and not as tenants in common.

Dictum of North, J., in *Re Atkinson* (1892, 3 Ch. 52, 54) not followed.—*RE CLARKSON, Eve, J.*, 630; 1915, 2 Ch. 216.

16. *Construction—Net sums—"Clear of all costs and expenses of raising the same"—No qualification—Appointment of residue—Revenue—Estate duty—Incident—Duty thrown on residue.—Where an appointment is made of "the net sum of" £— "clear of all costs and expenses of raising the same," the latter words do not cut down or restrict the meaning of the word "net" so as to*

exclude the duty on such sums, and accordingly the duty on all such sums so appointed must be borne by the residue.

The principles laid down in *Re Saunders, Saunders v. Gore* (1898, 1 Ch. 17), a case of succession duty, and *Re Corwell's Trust, Kinloch-Cooke v. The Public Trustee* (1910, 1 Ch. 63), a case of legacy duty, applied to the case of estate duty.—*RE GRANT, Sargent, J.*, 316.

17. *Construction—Residuary bequest—"The rest of my money"—"Anything belonging to me which I have not devised"—Reversionary interest—Evidence as to state of testator's property—Admissibility.—A testator, being entitled to a reversionary interest in a share of residue, by his will gave a pecuniary legacy to a charity, and proceeded: "The rest of my money I leave in equal shares to my brothers and sisters"; and after giving various other legacies, concluded: "Anything belonging to me which I have not devised I leave to my father and mother, if they are not living I leave them to my sisters."*

Held, that the last-named bequest was not a true residuary bequest, and that the reversionary interest passed under the gift of "the rest of my money."—*RE CAPEL, Eve, J.*, 177.

18. *Construction—Residuary estate on trust for conversion with power to postpone and retain—Tenant for life and remainderman—Investment in unauthorized securities—Wasting securities—Income—Enjoyment in specie.—Where a testator's will contained a separate clause empowering his trustees to permit any personal estate invested at his decease upon any stocks, funds and securities yielding income to continue in the same state of investment so long as they should think fit,*

Held, that the tenants for life were entitled to receive and enjoy *in specie* all the dividends arising from the retained investments, although they were of a wasting nature.

Secus, where the power to postpone conversion and the power to retain investments are merely subsidiary or ancillary to the trust for conversion.

Re Chaytor (1905, 1 Ch. 233) distinguished.—*RE INMAN, Neville, J.*, 161; 1915, 1 Ch. 187.

19. *Construction—Settled legacy—"Free of all duty"—Legacy duty—Estate duty—New duty imposed after death of testatrix—Incidence of duties—Finance Act, 1894, s. 5—Finance Act, 1914, s. 14.—A testatrix bequeathed a sum of £5,000, "free of all duty," upon trust for her niece for life, and after her death for her children, with an ultimate trust, in the event of no child of the niece attaining a vested interest, to certain charitable institutions. The testatrix died in January, 1913. The niece was still living and unmarried.*

Held, that the legacy duty in respect of the said sum was payable out of the general estate, but that the estate duty payable on the death of the niece would be payable out of the legacy itself.

Re Turnbull (1905, 1 Ch. 732, 733) applied.—*RE SNAPE, Eve, J.*, 562; 1915, 2 Ch. 179.

20. *Construction—"Should one of my nieces die before the other"—Certainty not contingency—Contingency of death before the tenant for life implied to make sense.—Where property was left by a testator to his two nieces in equal shares, subject to a life interest, "should one of my nieces die before the other, the other surviving niece to take the whole," with a gift over "should my nieces die without lawful issue," the testator and the tenant for life having died long ago, and one niece being now dead, leaving children her surviving, the other niece, who was also married and had children, claimed the whole.*

Held, that the death of one before the other was not in itself a contingency, but a certainty, and that, accordingly, there must be read into the gift the contingency or a niece dying in the lifetime of the tenant for life, which event did not happen, so the surviving niece was only entitled to a half, and the executors of the deceased niece took the other half of the property.

Howard v. Howard (1896, 21 Beavan, 550) followed.—*RE FISHER, Sargent, J.*, 318; 1915, 1 Ch. 302.

21. *Conversion—Incidence of estate duty—Devise of real estate in Ireland—Estate subject to conditional contracts for sale under Land Purchase Acts (Ireland)—Conditions still unfulfilled at death—Date from which conversion becomes effective—"Property not passing to the executor as such"—Finance Act, 1894 (57 & 58 Vict. c. 30), s. 9, sub-section 1.—A testator devised land in Ireland as to which he had entered into conditional contracts for sale to the tenants under the provisions of the Irish Land Purchase Acts. At the time of his death no part of the estate had actually been sold, the conditions of the contracts not having yet been fulfilled, and it was uncertain whether any of it would be so sold.*

Held (reversing *Eve, J.*), that no conversion was effected until the conditions should be fulfilled, and therefore the land did not pass to the executor as such, and the estate duty thereon must be borne by the devisee, and not by the residuary estate.

Re Isaacs (1894, 3 Ch. 506) followed and approved.
Lawes v. Bennett (1 Cox Eq. Cas. 167) explained.—*RE MARLAY, RUTLAND v. BURY, C.A.*, 494.

22. *Devise before the Wills Act, 1837* (7 Will. 4 and 1 Vict. c. 26)—*Legal estate to trustee in fee simple—Trust for A in fee simple with gift over in case of his death "unmarried" and without issue—No words of limitation to gift over—Extent of defeasance.*—Where the event was that of a death "unmarried and without lawful issue."

Held, that the word "unmarried" must be construed, not in its primary sense of "without ever having been married," but in its secondary sense of "without leaving a widow."

Re Sanders' Trusts (1866, 1 Eq. 675) and *Re Chant* (1900, 2 Ch. 345) followed.

The rule that the estate of a *cestui que trust* is commensurate with that of his trustee (*Challenger v. Sheppard*, 1800, 8 Term Rep. 597) is not applicable where the children's interests, as in this case under the old law before the Wills Act, are merely equitable estates for life, so to enlarge such interests into equitable estates in fee simple, since in any case the equitable estate in fee simple given in the previous gift required a corresponding legal estate in the trustee. Moreover, the gift over had only affected that equitable estate in fee simple so far as to give effect to the subsequent interests, which, being interests for life, had now come to an end.

Gatenby v. Morgan (1876, 1 Q. B. D. 685) followed.

Held, that the property now passed under the will of the person having the equitable estate in fee simple previous to the life estate, and not under the gift in the original will.—*RE JONES, LAST v. DOBSON, Sargant, J.*, 218; 1915, 1 Ch. 246.

23. *Legacy—Ademption—Bequest for benefit of parish church to carry out wish of wife—Subsequent purchase and gift of land for same object in memory of wife—Distinction of motive—Codicil confirming will.*—A testator, by his will, gave a legacy of £500 to be invested in the purchase of land to be held as glebe land of the parish church, and declared that he made the gift to carry out the express wish of his late wife. A year later he purchased land in the parish for £375, and conveyed it by a deed of gift expressed to be in memory of his wife to trustees upon similar trusts to those of the legacy. Six years later, by a codicil, he confirmed his will.

Held (affirming *Joyce, J.*, but on different grounds), that there had been no ademption of the legacy either complete or partial.—*RE AYNLEY, C.A.*, 128; 1915, 1 Ch. 172.

24. *Legal devise—Compendious form of strict settlement—Devise to "issue male in succession so that, &c."—Estates for life to issue born in testator's lifetime—Introductory words—Rule in Shelley's case.*—A testator devised real estate "unto and to the use of every son of mine and his issue male in succession, so that every elder son and his issue male be preferred to every younger son and his issue male . . . and so that every son and grandson who shall be begotten in my lifetime take an estate for life," with remainder to his sons according to seniority in tail male, and to every grandson begotten after testator's decease an estate in tail male.

Held, that the words of the devise down to "succession" and before "so that" were merely introductory to the rest; that the clause must be read as a whole, and, so read, created a compendious form of strict settlement, under which a grandson of the testator born in his lifetime took an estate for life only, and not an estate tail, and that the rule in *Shelley's case* had no application.—*RE LORD LAWRENCE, C.A.*, 127; 1915, 1 Ch. 129.

25. *Mutual wills—Joint tenancy—Leaseholds—Severance—Will revocable—Later will pronounced for.*—An arrangement between husband and wife, joint tenants of leaseholds, to execute mutual wills, and the execution of these wills, severs the joint tenancy in the properties and creates a tenancy in common.

A husband and wife, joint tenants of leaseholds, executed mutual wills in 1907, the arrangement concluded between them being that the wills were to be irrevocable. The husband died in 1911, and his will was proved. In 1912 the wife executed a codicil to her will, and in 1913 she executed a fresh will. These later documents were made by the wife in breach of the arrangement concluded between herself and her husband in 1907.

Held, that that arrangement and the execution of the wills severed the joint tenancy, and created a tenancy in common; and further, that the will of 1907 was revocable, and that the will of 1913 should be pronounced for as the true last will of the deceased wife.—*RE HEYS, P.D.*, 45.

26. *Residuary bequest to company—Propaganda against religion—Blasphemy—Legality of objects—Public policy—Perpetuity.*—A testator, by his will, gave the residue of his estate after the death of his wife to a company limited by guarantee and formed to promote the principle "that all human conduct should

be based upon natural knowledge, and not upon supernatural belief," together with ancillary objects, all having an anti-religious tendency.

Held, that the gift was valid, as being neither subversive of morality nor contrary to the law of blasphemy, nor did it create a perpetuity.

Briggs v. Hartley (14 Jur. 683) and *Cowan v. Millbourn* (L. R. 2 Exch. 230) not followed.—*RE BOWMAN, C.A.*, 703.

27. *Specific devise—Devise upon trust for tenant for life, with remainder to children attaining twenty-one or marrying—Trust of "as well the income as the capital"—Death of tenant for life leaving infants—Rent till interests vest.*—Where there was a gift in trust for a tenant for life, with remainder to her children attaining twenty-one or marrying, and after her death a gift of "as well the income as the capital" in trust, in default of appointment, for her children who should attain twenty-one, in equal shares, and the tenant for life had died, and the eldest child had just attained twenty-one,

Held, that the words "as well the income as the capital" expressed an intention on the part of the testator to dispose of the income of the property as from the day of the death of the tenant for life, and in the result the eldest child was not entitled to the rents of the whole of the property for any period, but that all six children were entitled to one sixth of the rents from the date of the death of the tenant for life as and when they became entitled to their share of *corpus*.

Re Averill (1898, 1 Ch. 522) distinguished.—*RE STEVENS, Sargant, J.*, 441; 1915, 1 Ch. 429.

See also Administration, Charity, Probate.

WORKMEN'S COMPENSATION:—

1. *Accident to eye, causing much pain and impaired vision—Suicide of workman—No evidence of insanity—No notice till after death—Employer prejudiced—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58), *Schedule I. (1) (a)*.—A workman met with injury by accident to his eye, arising out of and in the course of his employment, causing him much pain and impaired vision. A fortnight after the accident he consulted a specialist, who informed him that he might lose the sight of the eye. The next day he committed suicide, shooting himself with a revolver, which he had brought with him from his home more than an hour before. There was evidence of mental depression caused by the injury, but, apart from the fact of suicide, none of insanity. No notice of the accident was given until after the inquest.

Held, that, there being no evidence of insanity, the death was caused by the man's own deliberate act, and did not result from the injury, and that the claim was also barred by delay in giving notice.—*GRIME v. FLETCHER, C.A.*, 233; 1915, 1 K. B. 734.

2. *Coalheaver receives blow in stomach—Abdominal operation—Death three days later from peritonitis—Post-mortem showed weakened and disordered bowel due to chronic appendicitis—Whether inference could legitimately be drawn that death was accelerated by accident—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58), *Schedule I. (1) (a)*.—A coalheaver, while assisting to coal a ship, was struck in the stomach by the basket he was filling. He immediately sat down in great pain, and was unable to go on with his work. Death followed a week later, and a post-mortem examination showed that the man had suffered from chronic appendicitis of long standing, and this had produced a weakened and disordered bowel, which was more likely to be damaged by a blow than would a healthy bowel. Three days before he died an abdominal operation disclosed perforation of the bowel; but the certificate attributed death to peritonitis caused by a second and quite recent perforation of the bowel.

The county court judge found as facts that the accident happened as alleged by the applicant; that the accident caused acute injury to the weakened bowel, and that the injury so caused gradually produced perforation of the bowel, and so accelerated death. Accordingly he made an award in favour of the widow.

Held, after consideration (Lord Parker and Lord Sumner dissenting), that there was evidence of injury by accident, which resulted in the workman's death.

Decision of Court of Appeal (reported 29 T. L. R. 726, 6 B. W. C. C. 750) reversed.—*WOODS v. THOMAS WILSON, SONS & CO. (LIMITED), H.L.*, 348.

3. *Company—Winding-up—Proof—Employer and workman—Employer insured—Insurance company's liability—Continuing liability of the employer—Both employer company and insurance company in liquidation—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58), s. 5, sub-sections 1, 2, 3, 5.—A workman, who has a claim under the Workmen's Compensation Act, 1906, has no right to prove in the bankruptcy or winding-up of his employer, where the employer is insured against the claim, unless the insurance does not

cover the whole of the employer's liability.—*RE PETHICK, DIX & Co., Neville, J.*, 74; 1915, 1 Ch. 26.

4. *Compensation payable on death—Three years' earnings in employment of same employer—Absence from work due to illness—Actual, not average, earnings to be calculated—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58), Schedule I. (1)(a).*—Where a workman is killed by accident arising out of his employment, having been in the same employment for three years before the accident and in the same grade thereof, his actual earnings during those three years (being over £150) are the measure of compensation payable to his dependants, no allowance being made for periods of absence from work due to illness or any other unavoidable cause, and no calculation of average weekly earnings being necessary.

Perry v. Wright (1908, 1 K. B. 453) applied.—*GREENWOOD v. NALL & Co., C.A.*, 577; 1915, 3 K. B. 97.

5. *Contract of service—"Average weekly earnings"—Expenses of assistance given by members of workman's family—Not a proper deduction from wages—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58), s. 13, Schedule I. (1) (b), (2) (d).*—A dairy manager was engaged by contract in writing at a weekly wage, plus certain allowances, including a house rent free. He brought two younger sisters to live with him, boarded and lodged them free and paid them for their help in doing the work of the dairy. Upon his claiming compensation for an accident,

Held, that he was a workman within the Act, and that what he chose to pay to or for his sisters must not be deducted from his wages in computing his average weekly earnings.—*ROPER v. FREKE, C.A.*, 596.

6. *Course of employment—Disappearance of seaman at sea—Chief engineer falls overboard—Anxious about defects in propeller—No direct evidence of death—Presumption from circumstantial evidence—Accident arising out of employment—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58), s. 1 (1).*—The chief engineer of a steamship disappeared at sea. No one saw him fall overboard or in a place where there was danger of so falling, but it was proved that he was anxious about the behaviour of the propeller, and had given orders to be called, and had risen, earlier than usual, presumably to endeavour to observe it, and that he could do so but with difficulty and at some personal risk.

Held, there was evidence to support the finding of the county court judge that the accident arose out of the employment.—*PROCTOR v. OWNERS OF "SERBINO," C.A.*, 629.

7. *Course of employment—Disobedience to orders—Working within sphere of employment—Prohibition against sitting while at work—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58), s. 1 (1).*—A boy was employed at a machine to roll ventilating tiers. Contrary to orders, of which he was aware, he worked the machine sitting down, and in consequence of his sitting at his work his foot was caught in the rollers, and he was permanently injured. Had he been standing instead of sitting no accident would have happened.

Held, that though doing his work in a way contrary to orders, he was still acting within the sphere of his employment, and was entitled to compensation.

Decision of Court of Appeal (58 SOLICITORS' JOURNAL, 669; 7 B. W. C. C. 607) affirmed.—*BLAIR & Co. v. CHILTON, H.L.*, 474.

8. *Course of the employment—Drunkenness—Accident while engaged in scope of employment—Serious and wilful misconduct—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58), s. 1 (1).*—A stableman whose duty it was to cut chaff, and for that purpose to ascend by a fixed vertical ladder into a loft, attempted to do so in the course of his employment while in a drunken condition, but slipped from the ladder and fell, causing injuries which brought about his death.

Held, that as his duty exposed him to a greater risk than an ordinary man, the accident arose out of his employment, though mainly due to his serious and wilful misconduct.

Frazer v. John Riddell & Co. (7 B. W. C. C. 841) followed.

Nash v. SS. Rangatira (1914, 3 K. B. 978) distinguished.—*WILLIAMS v. LLANDUDNO COACHING, & Co., C.A.*, 286; 1915, 2 K. B. 101.

9. *Course of employment—Explosion on trawler caused by contact with enemy's floating mine—Injury to engineer—Disregard of instructions by master of vessel—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58), s. 1 (1).*—A steam trawler started from Grimsby for a fishing voyage in the North Sea. The master had previously been given careful instructions to avoid an area over which enemy's mines were known to have been scattered, but disregarded them. Having observed floating mines he changed his course in order to report their position to warships some miles away, thereby steaming into the middle of the minefield. In so doing the vessel struck a mine and was blown up.

Held, that the engineer of the trawler, who was picked up seriously injured, sustained his injuries by accident arising out of and in the course of the employment.—*RISDALE v. OWNERS OF "KILMARNOCK," C.A.*, 145; 1915, 1 K. B. 503.

10. *Course of employment—Fireman—Return to ship—Ashore to buy provisions—Agreement by crew to find their own provisions—Ship's business—Statutory agreement—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58), s. 1 (1).*—A member of the crew of a coasting vessel, who were engaged under articles requiring them to furnish their own provisions, went ashore, with leave, with the object of buying food for himself. Having made his purchases, he was endeavouring to return to the ship when he fell into the sea, and was drowned. His widow claimed compensation under the Act of 1906 from the owners of the ship, alleging that at the time of the accident the deceased was fulfilling a contractual obligation, and was employed on ship's business.

Held, that the accident did not arise out of his employment, as there was no contractual obligation on the deceased to supply his own provisions, and that in going ashore he was acting for his own purposes, and was not engaged on ship's business.

Decision of Court of Appeal (Cozens-Hardy, M.R., and Eve, J., Evans, P., dissenting) (reported 58 SOLICITORS' JOURNAL, 285; 1914, 2 K. B. 39, 7 B. W. C. C. 152) affirmed.—*PARKER v. OWNERS OF "BLACK ROCK," H.L.*, 475.

11. *Course of employment—Point at which employment terminates—Casual labourer employed by farmer assisting to remove threshing machine from farm—Local custom—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58), s. 1 (1).*—A casual labourer, employed by a farmer in threshing corn, met with injury by accident while assisting, at the request of the engine-driver, in getting the threshing machine, which had been hired by the farmer, out of the farm on to the public road, after he had been paid off by the farmer. It was found that there was a local custom for such casual labourers to follow machines from farm to farm on the chance of being engaged by the farmers to help in the threshing, and that they were expected, after being employed in threshing, to assist in packing up the machine and getting it with the engine on to the road, as part of their regular employment.

Held, that there was evidence upon which the county court judge was justified in finding that the accident arose out of and in the course of the employment.—*NEWSON v. BURSTALL, C.A.*, 204.

12. *Course of employment—Shunter riding on buffer contrary to rules—Departure from sphere of employment—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58), s. 1 (1).*—A shunter, whose duty it was to walk in front of or alongside the wagons being shunted, as the engine had some distance to go, got on the buffer of the leading wagon, and was injured by falling from it. It was not his duty to ride on a wagon, and the employers' rules strictly prohibited riding on buffers.

Held (Phillimore, L.J., dissenting), that the accident did not arise out of the employment.

Barnes v. Nunnery Colliery Co. (1912, A. C. 44) applied.

Chilton v. Blair (7 B. W. C. C. 607) distinguished.—*HERBERT v. S. FOX & Co., C.A.*, 249; 1915, 2 K. B. 81.

13. *Employers admit liability—Admission limited to payment of compensation during total incapacity—No admission as to period of partial incapacity—Question for arbitration—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58), s. 1 (3).*—A workman having met with injury by accident arising out of and in the course of his employment, his employers admitted liability to pay compensation to a certain amount during total incapacity, but refused to make any admission of liability during any subsequent partial incapacity. The workman having declined to accept an admission of liability so limited, commenced proceedings for an award.

Held, that a question had arisen to be settled by arbitration under the Act.

Payne v. Fortescue (1912, 3 K. B. 346) distinguished.—*COOPER v. WALES, C.A.*, 578; 1915, 3 K. B. 210.

14. *Failure to make a claim within six months—Workmen kept on at light work and paid full wages—Reasonable cause—Claim not barred by lapse of time—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58), s. 2 (1) (b).*—A workman, who was an old servant of the employer's, having met with injury by accident, by which he was partially incapacitated for a considerable time, was told by his employer to come and do such light work as he could, and he did so for over six months, continuing to receive his full wages. He made no claim for compensation until after he had been dismissed at a later date.

Held, that the fact that he continued to be paid his full wages was reasonable cause for his failure to make a claim within the statutory period, and that such claim was not barred.

Lynch v. Marquis of Lansdowne (49 Ir. L. T. R. 395) dissented from.—*LUCKIE v. MERRY, C.A.*, 544; 1915, 3 K. B. 83.

15. *Industrial disease arising by gradual process—Contributions from previous employers—Method of computing contribution—Evidence of working conditions—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58), s. 8 (1) (c) (iii).—Where a workman is affected by an industrial disease due to the nature of his employment, and contracted by a gradual process, and his last employers bring in the other employers during the previous twelve months as third parties to the arbitration, the county court judge must determine the contributions payable by them towards the compensation, after hearing evidence as to the working conditions and reviewing all the facts of the case. The liability is not one to be assessed solely on the basis of the length of the period of employment.—*BARRON v. SEATON BURN COAL CO., C.A.*, 315; 1915, 1 K. B. 756.

16. *Notice—Employer prejudiced in his defence—Inference drawn from facts by arbitrator that employer was not prejudiced—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58), s. 2 and 1 (a).—Held, that there was sufficient evidence to support the finding of the arbitrator that the accident arose out of and in the course of the deceased man's employment, and, on this point reversing the Court of Appeal, as no evidence was given at the trial by the employers to prove that they were prejudiced by want of notice, and they were in a better position to give evidence on that point than the applicant, the finding of the arbitrator that they were not prejudiced should not be disturbed.

Decision of Court of Appeal (6 B. W. C. C. 54), setting aside the award in favour of the applicant, reversed.—*HAYWARD v. WESTLEIGH COLLIERY, H.L.*, 269; 1915, A. C. 540.

17. *Opinion of medical referee—Appointment of same doctor to be medical assessor—Question to be decided same as that on which opinion given—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58), s. 10.—*Rules, 1913, 1914, r. 98* (1)—*Regulations, Certifying Surgeons*.—A medical referee appointed under the Act having given a certificate that a workman was suffering from a scheduled industrial disease at a certain date, with the addition that he had completely recovered at the date of the certificate, the workman commenced proceedings which raised the same issue as that on which the opinion had been given.

Held, that the county court judge was entitled to appoint as his assessor the same doctor who had already given his opinion on the question.—*WALLIS v. SOUTTER & Co., C.A.*, 285.

18. *Weekly payments—Patent and permanent injury—Application for suspensory award—Report of medical referee—Refusal of arbitrator to state a case—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58), *Schedule I*, s. 15.—Where an arbitrator has made an award on the report of a medical referee, such an award will only be reviewed on appeal if, on the face of it, it is wrong in law, or if it is made in such circumstances that the Court is of opinion that there was no evidence upon which the arbitrator could act.

Decision in *Gray v. Shotts Iron Co.* (1912, 49 Sc. L. R. 906, 6 B. W. C. C. 287) followed.—*JONES v. ANDERSON, H.L.*, 159.

19. *Weekly payment—Redemption—Execution of agreement—Subsequent death of workman before agreement recorded—Enforcement by legal personal representative—Workmen's Compensation Act, 1906, Schedule II*, 9, 10.—A workman, having met with an accident by which he lost an eye, received a weekly payment for a considerable period and ultimately agreed with the employers for the redemption of the weekly payment for £85. The agreement was sent to the registrar of the county court to be recorded, and ten days later, after notices to the parties had been sent out, and no objection or answer received from them, the registrar recorded the agreement. Afterwards it appeared that the workman died, from causes unconnected with the accident, after the agree-

ment was sent to the registrar, but before the lapse of seven days from his receipt of it.

Held, that the workman's legal personal representative was entitled to be paid the redemption money.—*PRICE v. WESTMINSTER BRYMBO COAL AND COKE CO., C.A.*, 301; 1915, 2 K. B. 128.

20. *Weekly payments—Refusal or obstruction of medical examination—Cesser of residence in United Kingdom—Enlistment and despatch abroad on foreign service—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58), *Schedule I*, (14) and (18)—*Consolidated Rules*, r. 66.—Where a workman in receipt of compensation for injury by accident, being only partly incapacitated, enlists in the Army and is ordered abroad on foreign service or on garrison duty in India or the colonies, he does not thereby refuse to submit to or obstruct medical examination by his employer, nor does he cease, for the purposes of the Act, to reside in the United Kingdom.—*HARRISON v. DORLING, C.A.*, 612.

21. *Workman refuses to submit to be further examined—Proceedings suspended—Power to make such order where examination is reasonable—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58), *Schedule I* (4).—A workman refused to be further examined, alleging that he had complied with the obligation, so far as *Schedule I* (4) of the Act of 1906 gave an employer any right to have a workman medically examined.

Held, that under paragraph 4 a workman had to submit to examination when it was reasonably requested by the employer, and there being no suggestion that the request was unreasonable in the circumstances of the present case, there had been a "refusal," and the proceedings had rightly been stayed.—*SMITH v. D. DAVIS & SONS, H.L.*, 397; 1915, A. C. 528.

YORKSHIRE REGISTRY:—

Mortgage of reversionary interest in proceeds of sale of land—Notice to trustees—Priorities—Yorkshire Registries Act, 1884 (47 & 48 Vict. c. 54), ss. 4, 14.—A mortgage of a reversionary interest in the proceeds of sale of land in Yorkshire, settled upon trust for sale, does not require registration under the Yorkshire Registries Act, 1884. A mortgagee thereof is sufficiently protected by inquiring of and giving notice to the trustees of the settlement and the priority of successive incumbrances is determined by the dates of such notices.

Malcolm v. Charlesworth (1 Keen, 63) and *Arden v. Arden* (29 Ch. D. 702) followed.—*GRESHAM LIFE ASSURANCE SOCIETY v. CROWTHER, C.A.*, 103; 1915, 1 Ch. 214.

ADDENDUM.

LEASE:—

Licensed premises—Covenant to insure licence against "loss or forfeiture"—Licence refused on the ground of redundancy—Risk not insured against—Lease subsequent to Licensing Act, 1904 (4 Ed. 7, c. 23).—A covenant to insure a licence against loss or forfeiture is a covenant of indemnity, and not an absolute covenant.

Where, under the Licensing Act, 1904, the lessor and lessee contribute to the compensation fund in the knowledge that statutory compensation for the loss of the licence by reason of redundancy is in operation under the provisions of the Act, the scope of such a covenant in the lease must be limited to insurance against loss or forfeiture through any act or omission on the part of the lessee, and it does not extend to cover loss of the licence by reason of redundancy under the Act. A decision to the contrary would in effect entitle the lessor to a double insurance.

Williams v. Lassell & Sharman (22 T. L. Rep. 443) not applicable.—*WOOTEN v. LICHFIELD BREWERY Co., Ashbury, J.*, 744.

STATUTES

Enacted in the Session of Parliament, 1914.

4 & 5 GEO. 5.

CHAPTER 1.

[CONSOLIDATED FUND (No. 1) ACT, 1914.]

An Act to apply certain sums out of the Consolidated Fund to the service of the years ending on the thirty-first day of March one thousand nine hundred and fourteen and one thousand nine hundred and fifteen.
[31st March, 1914.]

CHAPTER 2.

[ARMY (ANNUAL) ACT, 1914.]

An Act to provide, during Twelve Months, for the Discipline and Regulation of the Army.
[30th April, 1914.]

Be it enacted, &c. :

AMENDMENTS OF THE ARMY ACT.

4. *Amendment of s. 115 of the Army Act relating to the impressment of carriages and horses.* In section one hundred and fifteen of the Army Act, which relates to the impressment of carriages and horses, the following subsection shall be inserted after subsection (3) :—

(3A) A requisition of emergency may authorise any officer mentioned therein to require any carriages and horses furnished in pursuance of this section to be delivered at such place (not being more than one hundred miles in the case of a motor car or other locomotive, and not being more than ten miles in the case of any other carriage or horse, from the premises of the owner) and at such time as may be specified by any officer mentioned in the requisition, and in such case it shall be the duty of a constable executing a warrant issued by a justice of the peace under this section upon the demand of an officer producing the requisition of emergency to insert in his order such time and place for delivery of any vehicle or horse to which the order relates as may be specified by such officer, and the obligation of owners to furnish carriages and horses shall include an obligation to deliver the carriages and horses at such place and time as may be specified in such order, and the provisions of this Act shall have effect as if references therein to the furnishing of carriages and horses included, as respects any such carriage or horse as aforesaid, delivery at such time and place as aforesaid.

5. *Amendment of s. 145 of the Army Act.* In paragraph (b) of subsection (2) of section one hundred and forty-five of the Army Act, which relates to the liability of a soldier of the regular forces to have deductions made from his pay on account of his wife or any of his legitimate children under fourteen years of age whom he has deserted or left in destitute circumstances without reasonable cause, for the words "under fourteen years of age" there shall be substituted the words "under sixteen years of age."

6. *Amendment of s. 179 (15) of the Army Act.* In paragraph (15) of section one hundred and seventy-nine of the Army Act, which relates to the application of naval discipline to the Royal Marines, for the words "otherwise than for service on shore" there shall be substituted the words "unless made subject to military law as hereinafter provided."

7. *Amendment of s. 180 of the Army Act.* In subsection (2) of section one hundred and eighty of the Army Act, which relates to the

application of that Act to His Majesty's Indian Forces, the following paragraph shall be inserted after paragraph (d) :—

(e) A court martial may sentence an officer of the Indian Forces to forfeit all or any part of his service for the purposes of promotion.

CHAPTER 3.

[GREY SEALS (PROTECTION) ACT, 1914.]

An Act to provide for the better Protection of the Grey Seal.

[8th July, 1914.]

Be it enacted, &c. :

1. *Close time for grey seals.* (1) If any person between the first day of October and the fifteenth day of December in the same year knowingly or with intent kills, wounds, or takes by any means a grey seal (*halichoerus grypus*), he shall, on conviction under the Summary Jurisdiction Acts, be liable in respect of each offence to a fine not exceeding five pounds.

(2) If any person being the owner of a boat knowingly uses or permits his boat to be used for the purpose of killing, wounding, or taking a grey seal, he shall, on conviction under the Summary Jurisdiction Acts, be liable in respect of each offence to a fine not exceeding ten pounds.

2. *Duration of Act.* This Act shall continue in force until the thirty-first day of December one thousand nine hundred and eighteen, and no longer, unless Parliament otherwise determines.

3. *Short title.* This Act may be cited as the Grey Seals Protection Act, 1914.

CHAPTER 4.

[SHEFFIELD UNIVERSITY ACT, 1914.]

An Act to extend the privileges of the graduates of the University of Sheffield.

[31st July, 1914.]

Be it enacted, &c. :

1. *Extension of privileges of graduates of Sheffield University.* Wherever any office is or shall be open to graduates of the Universities of Oxford, Cambridge, and London, the Victoria University of Manchester, the University of Liverpool, and the University of Leeds, or wherever any privilege or exemption has been or shall be given by any Act of Parliament or regulation of any public authority to graduates of the Universities of Oxford, Cambridge, and London, the Victoria University of Manchester, the University of Liverpool, and the University of Leeds, graduates of the University of Sheffield, having the degree which would be a qualification if it had been granted by the University of Oxford, Cambridge, or London, the Victoria University of Manchester, the University of Liverpool, or the University of Leeds, may become candidates for and may hold any such office, and shall be entitled to all such privileges, as fully as graduates of any of the last-mentioned universities.

2. *Short title.* This Act may be cited as the Sheffield University Act, 1914.

CHAPTER 5.

[SUPERANNUATION (ECCLIASTICAL COMMISSIONERS AND QUEEN ANNE'S BOUNTY) ACT, 1914.]

An Act to amend the Ecclesiastical Commissioners (Superannuation) Act, 1865, and the Queen Anne's Bounty (Superannuation) Act, 1870.
[31st July, 1914.]

CHAPTER 6.

[AFFILIATION ORDERS ACT, 1914.]

An Act to amend the Law relating to the Collection and Recovery of Moneys due under Affiliation Orders and for other purposes connected therewith. [31st July, 1914.]

Be it enacted, &c. :

1. *Appointment and duties of collecting officer in respect of affiliation orders.* (1) There shall be appointed by the justices of each petty sessional division or borough for the purposes of this Act an officer of the court who shall carry out the duties of the collecting officer under this Act.

(2) Where the Justices make an affiliation order, they shall, unless upon representations expressly made in that behalf by the applicant for the affiliation order they are satisfied that it is undesirable so to do, provide in the order that all payments thereunder shall be made to the collecting officer of the court, and, if the order so provides, all payments under the order shall be made to the collecting officer and not otherwise.

(3) It shall be the duty of the collecting officer to receive all such payments as may be directed to be made to him under this Act and to pay forthwith to the mother of the bastard child, or to such other person as is named in the affiliation order, the sum directed to be paid under the order, or such part thereof as he receives, without making any deduction therefrom, and, where any such payment or any part thereof is in arrear for seven days, the collecting officer shall give notice in writing to the person who is entitled under the affiliation order to receive that payment, stating the particulars of the arrears. Nothing in this Act shall affect the right of the mother or other person entitled to recover payments under the affiliation order to proceed against the putative father of the child to enforce payment of any sum due to such person, but, on the request in writing of the mother or other person entitled to recover payments under the affiliation order, it shall be lawful for the collecting officer to proceed in his name as such officer on behalf of the mother or such other person against the putative father for the recovery of payments under the affiliation order, and in any such case the liability of the person on whose behalf the proceedings are taken for all costs properly incurred in or about the proceedings shall be the same as if the proceedings had been taken by that person.

(4) Where an affiliation order has been made before the commencement of this Act, a court of summary jurisdiction may, in accordance with rules to be made under this Act, if it thinks fit, direct that all payments becoming due under such order shall be made to the collecting officer, and, where the court directs the payments to be so made, the provisions of this section shall apply as if the affiliation order had been made after the commencement of this Act.

(5) Where a court of summary jurisdiction makes an order for the periodical payment of money through an officer of the court, the authority, having the control of the fund out of which the salary of the clerk of that court is paid, may pay to that officer out of that fund, in manner provided by rules made by the Secretary of State, a sum not exceeding five pounds per centum on the money actually paid through him in pursuance of the order, as remuneration to him in respect of the work done and expenses incurred by him in respect of the order.

(6) A provision in an affiliation order under this section with respect to the person to whom the payments under the affiliation order are to be made may, after complaint made at any time, be varied by a court of summary jurisdiction if good cause is shown by the person on whose application the affiliation order was made.

2. Attachment of pension or income.] When an affiliation order has been made, either before or after the commencement of this Act, the justices who made the order or any court of summary jurisdiction may, in any case where there is any pension or income payable to the person on whom the affiliation order has been made and capable of being attached, after giving the person to whom the pension or income is payable an opportunity of being heard, and provided that the court or justices, as the case may be, are satisfied that such person has, without reasonable cause, made a default under the order, order that such an amount each week as is specified in the affiliation order or any part of such amount be attached and be paid to the person named by the court. Such order shall be an authority to the person by whom such pension or income is payable to make the payment so ordered, and the receipt of the person to whom the payment is ordered to be made shall be a good discharge to such first-named person.

3. Payment under affiliation order to person having custody of child.] Notwithstanding anything in this or any other Act, an affiliation order may, on the application of the person for the time being having the custody of the child either legally or by any arrangement approved by the court, be made or varied by a court of summary jurisdiction so as to provide that the payments to be made thereunder shall be made to that person.

4. Notice of change of address.] The person on whom an affiliation order has been made shall, if he changes his address, give notice thereof to the collecting officer, if payment has been ordered to be made to him, and, if he fails to do so without reasonable excuse, he shall be liable on summary conviction to a fine not exceeding two pounds.

5. Amendments of law as to period between service of summons and hearing.] In section three of the Bastardy Laws Amendment Act, 1872 [35 and 36 Vict. c. 65], the words "upon a day specified in such summons" shall be substituted for the words "after the expiration of six days at least"; in section four of the same Act and in section five of the Bastardy Laws Amendment Act, 1873 [36 and 37 Vict. c. 9], the words "a reasonable time" shall be substituted for the words "six days at least."

6. New or altered form of proceedings.] (1) The Local Government Board may issue such new or altered forms of proceedings in matters of bastardy as they shall deem necessary or expedient for giving effect to the existing Acts relating to such proceedings as amended by this Act.

(2) The power given to the Lord Chancellor to make Rules under the Summary Jurisdiction Acts shall include a power to make Rules for the purpose of carrying this Act into effect and for dealing with costs, fees, and expenses.

7. Definition.] In this Act, unless the context otherwise requires, the expression "affiliation order" means an order made under the Bastardy Laws Amendment Act, 1872, or any Act amending the same, adjudging a man to be the putative father of a bastard child and ordering him to pay a sum of money weekly or otherwise to the mother of the bastard child or to any other person who is named in the order.

8. Extent of Act.] This Act shall not apply to Scotland or Ireland.

9. Short title.] This Act may be cited as the Affiliation Orders Act, 1914.

CHAPTER 7.

[AGRICULTURAL HOLDINGS ACT, 1914.]

An Act to extend the provisions of section eleven of the Agricultural Holdings Act, 1908, to the determination of tenancies in connection with the sale of holdings.

[31st July 1914.]

Be it enacted, &c.:

1. Compensation for disturbance in connection with sale.] (1) Notwithstanding any agreement to the contrary, where the tenancy of a holding is terminated after the passing of this Act by notice to quit given after that date—

(a) in view of the sale or offering for sale of the holding or any part thereof; or

(b) by or at the request of the purchaser of the holding before the expiration of one calendar year after completion of the purchase of the holding for any reason other than the wrongful act or default of the tenant in relation to the holding;

the tenant shall be entitled to recover compensation in terms of, and subject to the provisions of, section eleven of the Agricultural Holdings Act, 1908 [8 Edw. 7, c. 28], except that the notice by the tenant of his intention to claim compensation required by that section may be given at any time not less than two months before the determination of the tenancy.

(2) Compensation under this section shall not be payable in any case to which the Small Holdings Act, 1910 [10 Edw. 7 and 1 Geo. 5, c. 34], applies.

(3) In the event of any difference arising as to any matter under this section the difference shall, in default of agreement, be settled by arbitration.

2. Short title and construction.] This Act may be cited as the Agricultural Holdings Act, 1914, and shall be construed as one with the Agricultural Holdings Act, 1908 [8 Edw. 7, c. 28], and 1913 [2 and 3 Geo. 5, c. 21], and those Acts and this Act may be cited together as the Agricultural Holdings Acts, 1908 to 1914.

CHAPTER 8.

[POLICE (WEEKLY REST-DAY) (SCOTLAND) ACT, 1914.]

An Act to facilitate the grant to members of the Constabulary in Scotland of one day's rest off duty in every seven.

[31st July 1914.]

CHAPTER 9.

[GOVERNMENT OF THE SOUDAN LOAN ACT, 1914.]

An Act to amend the Schedule to the Government of the Soudan Loan Act, 1913.

[31st July 1914.]

CHAPTER 10.

[FINANCE ACT, 1914.]

An Act to continue the Duty of Customs on Tea, to reimpose Income Tax and Super-Tax, with amendments and modifications, and to amend the Law relating to Death Duties and the National Debt, and for purposes incidental thereto.

[31st July 1914.]

PART I.

CUSTOMS.

1. Duty on tea.] The duty of Customs payable on tea until the first day of July, nineteen hundred and fourteen, under the Finance Act, 1913 [3 and 4 Geo. 5, c. 30], shall continue to be charged, levied, and paid until the first day of July nineteen hundred and fifteen, on the importation thereof into Great Britain or Ireland (that is to say):—

Tea, the pound fivepence

PART II.

INCOME TAX.

2. Income tax for 1914-15.] (1) Income tax for the year beginning on the sixth day of April, nineteen hundred and fourteen, shall be charged at the rate of one shilling and threepence.

(2) All such enactments relating to income tax as were in force with respect to duties of income tax granted for the year beginning on the sixth day of April, nineteen hundred and thirteen, shall have full force and effect with respect to any duties of income tax hereby granted.

(3) The annual value of any property which has been adopted for the purpose either of income tax under Schedules A. and B. in the Income Tax Act, 1853 [16 and 17 Vict. c. 34], or of inhabited house duty, for the year ending on the fifth day of April, nineteen hundred and fourteen, shall be taken as the annual value of such property for the same purpose for the next subsequent year; provided that this subsection—

(a) so far as respects the duty on inhabited houses in Scotland, shall be construed with the substitution of the twenty-fourth day of May for the fifth day of April; and

(b) shall not apply to the metropolis as defined by the Valuation (Metropolis) Act, 1869 [32 and 33 Vict. c. 67].

3. Super-tax for 1914-15.] (1) In addition to the income tax charged at the rate of one shilling and threepence under this Act there shall be charged, levied, and paid for the year beginning on the sixth day of April, nineteen hundred and fourteen, in respect of the income of any individual, the total of which from all sources exceeds three thousand pounds, an additional duty of income tax (in this Act referred to as super-tax) at the following rates:—

In respect of the first two thousand five hundred pounds of the income, nil.

In respect of the excess over two thousand five hundred pounds—

for every pound of the first five hundred pounds of the excess, fivepence.

for every pound of the next one thousand pounds of the excess, sevenpence.

for every pound of the next one thousand pounds of the excess, ninepence.

for every pound of the next one thousand pounds of the excess, elevenpence.

for every pound of the next one thousand pounds of the excess, one shilling and a penny.

for every pound of the next one thousand pounds of the excess, one shilling and threepence.

for every pound of the remainder of the excess, one shilling and fourpence.

(2) All such enactments relating to super-tax as were in force with respect to the super-tax granted for the year beginning on the sixth day of April, nineteen hundred and thirteen, shall have full force and effect with respect to the super-tax granted under this section:

Provided that in estimating total income for the purposes of super-tax for the year beginning the sixth day of April, nineteen hundred and fourteen, a deduction may be made (in addition to those authorised in paragraph (a) of subsection (2) of section sixty-six of the Finance (1909-10) Act, 1910 [10 Edw. 7, c. 8], of any additional sum on which it is shown to the Commissioners of Inland Revenue that duty would have been repayable in respect of maintenance, repairs, insurance, and management if this Act had been in force during the year by reference to which the total income is estimated.

4. Modification of relief given in respect of earned income.] (1) The following subsection shall be substituted for subsection (1) of section nineteen of the Finance Act, 1907 [7 Edw. 7, c. 13] (which provides for the reduction of the income tax payable in respect of earned income), namely:—

"(1) Any individual who claims and proves in manner provided by this section that his total income from all sources does not exceed two thousand five hundred pounds, and that any part

of that income is earned income, shall be entitled, subject to the provisions of this section, to such relief from income tax as will reduce the amount payable on the earned income to the amount which would be payable if the tax were charged on that income at the rate of—

- "ninpence if the total income does not exceed one thousand pounds;
- "tenpence halfpenny if the total income exceeds one thousand pounds but does not exceed one thousand five hundred pounds;
- "one shilling if the total income exceeds one thousand five hundred pounds but does not exceed two thousand pounds;
- "one shilling and twopence if the total income exceeds two thousand pounds but does not exceed two thousand five hundred pounds."

(2) Section sixty-seven of the Finance (1909-10) Act, 1910, shall cease to have effect.

5. *Taxation of income in respect of foreign property.* Income tax in respect of income arising from securities, stocks, shares, or rents in any place out of the United Kingdom shall, notwithstanding anything in the rules under the fourth and fifth case in section one hundred of the Income Tax Act, 1832 (5 and 6 Vict. c. 35), be computed on the full amount of the income, whether the income has been or will be received in the United Kingdom or not, subject in the case of income not received in the United Kingdom to the same deductions and allowances as if it had been so received and to the deduction (where such a deduction cannot be made under any other provision of the Income Tax Acts) of any sum which shall have been paid in respect of income tax in the place where the income shall have arisen, and to a deduction on account of any annual interest or any annuity or other annual payment payable out of the income to a person not resident in the United Kingdom; and the provisions of the Income Tax Acts (including those relating to returns) shall apply accordingly, and nothing in those provisions as to the receipt of sums in the United Kingdom shall be construed so as to render liable under those rules to income tax for the current or any subsequent year any sums which represent—

- (a) income from any such securities, stocks, shares, or rents, on which income tax has been paid under this section; or
- (b) income from any such securities, stocks, shares, or rents which was paid or became due before the sixth day of April, nineteen hundred and fourteen:

Provided that this section shall not apply in case of a person who satisfies the Commissioners of Inland Revenue that he is not domiciled in the United Kingdom, or that, being a British subject, he is not ordinarily resident in the United Kingdom.

Any person aggrieved by any decision of the Commissioners of Inland Revenue, on a question of domicile or residence under this section, shall have the same right to require those Commissioners to state a case on the question as an appellant has to require the general or special Commissioners to state a case on a point of law, and section fifty-nine of the Taxes Management Act, 1890 (43 and 44 Vict. c. 19), and any rules made for the purposes of that section shall apply accordingly.

6. *Relief of small incomes from increased tax.* (1) If any individual who has been assessed or charged to income tax, or has paid income tax either by way of deduction or otherwise, claims and proves in manner prescribed by the Income Tax Acts that his total income from all sources does not exceed five hundred pounds, he shall be entitled to such relief from income tax as will reduce the amount of income tax on his income to the amount which would have been paid if the tax were charged on that income—

- (a) at the rate of one shilling and twopence if his income exceeds three hundred pounds; and

(b) At the rate of one shilling if his income does not exceed three hundred pounds.

(2) The relief given under this section shall be in addition to and not in derogation of any exemption, or other relief, or abatement under the Income Tax Acts, but where any such exemption, relief, or abatement is to be determined by reference to the amount of the income tax on any sum, the amount of the tax shall be calculated at the reduced rate.

(3) All the provisions of the Income Tax Acts which relate to claims for exemption, relief, or abatement, or the proof to be given with respect to those claims, shall apply to claims for relief under this section and the proof to be given with respect to those claims.

(4) An individual shall not be entitled to relief under this section in respect of any income the tax on which he is entitled to charge against any other person, or to deduct, retain, or satisfy out of any payment which he is liable to make to any other person.

7. *Extension of relief in respect of children.* Section sixty-eight of the Finance (1909-10) Act, 1910 (which gives to individuals whose total income does not exceed five hundred pounds relief from income tax equal to the amount of tax on ten pounds in respect of every child under the age of sixteen years), shall have effect as if twenty pounds were substituted for ten pounds.

8. *Relief from income tax in respect of maintenance, &c., of land and houses.* The limit under section sixty-nine of the Finance (1909-10) Act, 1910, on the amount of duty which may be repaid on account of the maintenance, repairs, insurance, and management of land or houses shall be removed as respects income tax for the year beginning the sixth day of April, nineteen hundred and fourteen, and any subsequent year, and as respects that year and any subsequent year, twelve pounds shall be substituted for eight pounds in subsection (2) of the said section as the annual value limit for houses to which that section is applied.

9. *Provisions with respect to income tax of married persons.* (1) If an application is made for the purpose in such manner and form as may be prescribed by the Commissioners of Inland Revenue, either by a husband or wife, within six months before the sixth day of May in any income tax year—

- (a) Income tax (including super-tax) for that year shall be assessed, charged, and recovered on the income of the husband and on the income of the wife as if they were not married, and all the provisions of the Income Tax Acts with respect to the assessment, charge, and recovery of income tax (including super-tax), and the penalties for failure to make a return, shall apply as if they were not married; and
- (b) All the provisions of the Income Tax Acts which relate to claims for exemption, relief, or abatement, and the proof to be given with respect to those claims, shall also apply as if they were not married; and a claim under section five of the Finance Act, 1897 (60 and 61 Vict. c. 24) (which relates to the exemption of the income of a married woman in certain cases), may be made by the wife as well as by the husband; and

(c) The income of the husband and wife shall be treated as one in estimating the amount to be repaid or allowed in respect of any exemption, relief, or abatement which depends wholly or partially on total income (except so far as otherwise required for the purpose of dealing with any claim for exemption, relief, or abatement under section five of the Finance Act, 1897), and the total amount of any exemption, relief, or abatement given in respect of the incomes of the husband and wife shall not exceed that which would have been given if an application

had not been made under this section; and

(d) The benefit of any such exemption, relief, or abatement may be given either by way of reduction of assessment, or by repayment of any excess of tax which has been paid, or by both of those means, as the case requires, and shall, in the case of relief given in respect of earned income (including any exemption, relief, or abatement given in respect of the profits of a wife from a business in pursuance of section five of the Finance Act, 1897), be given in proportion to the income earned respectively by the husband and the wife, in the case of relief given in respect of insurance premiums, be given to the husband or wife as the case may be, by whom the premium is paid, and, in any other case be given in proportion to the respective incomes of the husband and wife; and

(e) for the purpose of any exemption, relief, or abatement, a return may be made by the husband or the wife of the total income of the husband and wife, but if the Commissioners of Inland Revenue are not satisfied with such return they may obtain a return from the wife or husband, as the case may be; and

(f) the income of the husband and wife shall be treated as one in estimating total income for the purpose of super-tax, and the amount of super-tax payable in respect of the total income shall be divided between the husband and wife in proportion to their respective incomes, and the total amount payable shall not be less than it would have been if an application had not been made under this section.

(2) The Commissioners of Inland Revenue may require returns for the purposes of this section to be made at any time, and section fifty-five of the Income Tax Act, 1842 (5 and 6 Vict. c. 35), shall, with the necessary modifications, apply in the case of the refusal or neglect to make or wilful delay in making any such return.

(3) Where income tax (including super-tax) is charged on the profits or income of a married woman, in pursuance of this section, the power to distrain in the case of non-payment of any income tax payable by the wife shall extend to the goods and chattels of the husband as well as to the goods and chattels of the wife:

Provided that no distraint shall be so made on the goods and chattels of the husband unless a written demand for payment shall first have been made on the husband or left for him at his usual place of residence, and he shall have failed to pay the amount of tax payable by his wife within seven days of such demand.

(4) Section eleven of the Revenue Act, 1911 (1 and 2 Geo. V. c. 2) (which relates to the assessment and recovery of part of the super-tax from the wife in certain cases), shall cease to have effect.

10. *Provision as to partnership businesses carried on abroad.* (1) Where any trade or business is carried on by two or more persons in partnership, and the control and management of such trade or business is situate abroad, the said trade or business shall be deemed to be carried on by persons resident outside the United Kingdom and the said partnership shall be deemed to reside outside the United Kingdom, notwithstanding the fact that some of the members of the said partnership are resident in the United Kingdom and that some of the trading operations of the said partnership are conducted within the United Kingdom.

(2) Where any part of the trade or business of a partnership firm whose management and control is situate abroad consists of trading operations within the United Kingdom, the said firm shall be assessable in respect of the profits of such trading operations within the United Kingdom to the same extent as, and no further than, a person

resident abroad is assessable in respect of trading operations by him within the United Kingdom, notwithstanding the fact that one or more of the members of the said firm are resident in the United Kingdom, provided that, for the purpose of assessing any such firm in respect of the profits of the said trading operations within the United Kingdom, an assessment may be made on the said firm in respect of the said profits in the name of any partner resident in the United Kingdom.

11. *Residents abroad owning securities of foreign state or British possession.* [The time limit imposed by subsection (2) of section seventy-one of the Finance (1909-10) Act, 1910, which grants relief to persons not resident in the United Kingdom in respect of income tax on the interest or dividends of any securities of a foreign state or British possession, shall be extended from six months to three years.]

PART III.

DEATH DUTIES.

12. *Amended rates of estate duty.* [The scale set out in the First Schedule to this Act shall, in the case of persons dying after the fifteenth day of August, nineteen hundred and fourteen, be substituted for the scale of rates of estate duty set out in the Second Schedule to the Finance (1909-10) Act, 1910, as the scale of rates of estate duty.]

13. *Reduction of full amount of duty where the margin above the limit of value is small.* (1) The amount of estate duty payable on an estate at the rate applicable thereto under the scale of rates of duty shall, where necessary, be reduced so as not to exceed the highest amount of duty which would be payable at the next lower rate, with the addition of the amount by which the value of the estate exceeds the value on which the highest amount of duty would be so payable at the lower rate.

(2) Where the net value of the property real and personal in respect of which estate duty is payable on the death of the deceased, exclusive of property settled otherwise than by the will of the deceased, exceeds one thousand pounds, the amount of legacy and succession duty payable in respect of the property shall not exceed the amount by which the net value of the property as estimated for the purposes of estate duty exceeds one thousand pounds.

14. *Abolition of settlement estate duty and of relief in respect of settled property.* [Any relief from the payment of estate duty given by subsection (2) of section five, or by subsection (1) of section twenty-one of the Finance Act, 1894 [57 and 58 Vict. c. 30] (which relate to settled property), or by subsection (16) of section twenty-three of that Act (which relates to entailed estates in Scotland) shall cease in the case of any person dying after the fifteenth day of August, nineteen hundred and fourteen, and settlement estate duty shall not be levied in the case of persons dying after the eleventh day of May, nineteen hundred and fourteen:]

Provided that—

(a) nothing in this section shall affect the relief given by the above-mentioned provisions of the Finance Act, 1894, in cases where, before or after the passing of this Act, estate duty has been paid or any of the duties specified in subsection (1) of section twenty-one of that Act have, either before or after the passing of this Act, been paid or are payable upon the death of one of the parties to a marriage, so far as respects the payment of estate duty on the death of the other party to the marriage; and

(b) on the first occasion on which estate duty becomes payable in respect of any property which would not have been payable but for this section, the amount of settlement estate duty, if any, which

has been paid in respect of that property, shall be allowed against the amount of estate duty payable on that occasion, and if it exceeds that amount, the excess shall be repaid to the estate, and in addition, a sum equal to simple interest on the said amount of settlement estate duty calculated at the rate of three per cent. per annum from the fifteenth day of August, nineteen hundred and fourteen, up to the date of the occasion shall be paid to the several persons or their representatives who would have been entitled to the income arising from that amount, if that amount had on the fifteenth day of August, nineteen hundred and fourteen, been added to the capital of the settled property and shall be divided amongst those persons or their representatives according to the several interests they would have had in that income; and

(c) Section eleven of the Finance Act, 1900 [63 and 64 Vict. c. 7], as amended by section fifty-nine of the Finance (1909-10) Act, 1910, shall not operate on any such surrender, assurance, divesting, or disposition as is mentioned in the said section eleven made by any person between the fifteenth day of August, nineteen hundred and fourteen, and the first day of April, nineteen hundred and fifteen, so as to make any estate duty payable on the death of that person which would not have been payable but for this section.

15. *Relief in respect of quick succession where property consists of land or a business.* [Where the Commissioners of Inland Revenue are satisfied that estate duty has become payable on any property consisting of land or a business (not being a business carried on by a company), or any interest in land or such a business, passing upon the death of any person, and that subsequently within five years estate duty has again become payable on the same property or any part thereof passing on the death of the person to whom the property passed on the first death, the amount of estate duty payable on the second death (if that death occurs after the passing of this Act) in respect of the property so passing shall be reduced as follows:—

Where the second death occurs within one year of the first death, by fifty per cent.;

Where the second death occurs within two years of the first death, by forty per cent.;

Where the second death occurs within three years of the first death, by thirty per cent.;

Where the second death occurs within four years of the first death, by twenty per cent.;

Where the second death occurs within five years of the first death, by ten per cent.;

Provided that where the value, on which the duty is payable, of the property on the second death exceeds the value, on which the duty was payable, of the property on the first death, the latter value shall be substituted for the former for the purpose of calculating the amount of duty on which the reduction under this section is to be calculated.

16. *Protection of purchasers and mortgagees of interests in expectancy.* [Where an interest in expectancy within the meaning of Part I. of the Finance Act, 1894 [57 and 58 Vict. c. 30], in any property has, before the eleventh day of May, nineteen hundred and fourteen, been bona fide sold or mortgaged for full consideration in money or money's worth, then no other duty on that property shall be payable by the purchaser or mortgagee when the interest falls into possession than would have been payable if this Part of this Act had not passed, and in the case of a mortgage any higher duty payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee.]

PART IV.

NATIONAL DEBT.

17. *Reduction of permanent annual charge for current year.* [The amount of the permanent annual charge for the National Debt under section one of the Sinking Fund Act, 1875 [38 and 39 Vict. c. 45], shall, during the current year, be the sum of twenty-three and a half million pounds; and section four of the Finance Act, 1910 [10 Edw. 7, c. 35], shall have effect accordingly.]

PART V.

MISCELLANEOUS.

18. *Repeal, construction, and short title.* (1) The enactments specified in the Second Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule.

(2) Part I. of this Act, so far as it relates to duties of Customs, shall be construed together with the Customs (Consolidation) Act, 1876 [39 and 40 Vict. c. 36], and any enactments amending that Act.

Part II. of this Act shall be construed together with the Income Tax Acts, 1842 to 1853, and any other enactments relating to income tax, and those enactments and Part II. of the Act are in this Act referred to as the Income Tax Acts.

Part III. of this Act shall be construed together with the Finance Act, 1894.

(3) This Act may be cited as the Finance Act, 1914.

FIRST SCHEDULE.

[Section 12.]

SCALE OF RATES OF ESTATE DUTY.

Where the Principal Value of the Estate Exceeds		Estate Duty shall be Payable at the Rate per Cent. of
£	£	
100 and does not exceed 500	500	1
500 " " 1,000	1,000	2
1,000 " " 5,000	5,000	3
5,000 " " 10,000	10,000	4
10,000 " " 20,000	20,000	5
20,000 " " 40,000	40,000	6
40,000 " " 60,000	60,000	7
60,000 " " 80,000	80,000	8
80,000 " " 100,000	100,000	9
100,000 " " 150,000	150,000	10
150,000 " " 200,000	200,000	11
200,000 " " 250,000	250,000	12
250,000 " " 300,000	300,000	13
300,000 " " 350,000	350,000	14
350,000 " " 400,000	400,000	15
400,000 " " 500,000	500,000	16
500,000 " " 600,000	600,000	17
600,000 " " 800,000	800,000	18
800,000 " " 1,000,000	1,000,000	19
1,000,000 " " "	"	20

SECOND SCHEDULE.

[Section 18.]

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Statutes Repealed.
57 & 58 Vict. c. 30.	The Finance Act, 1894.	Subsections (1) and (4) of section five; in section seven the words "the rate of the settlement estate duty where the property is settled shall be two per cent.": subsection (4) of section twenty-one.

Session and Chapter.	Short Title.	Statutes Repealed.
10 Edw. 7, c. 8	The Finance (1909 - 10) Act, 1910.	Section fifty-four and the Second Schedule as respects persons dying after the fifteenth day of August, one thousand nine hundred and fourteen; section sixty-seven; in subsection (1) of section sixty-nine the words "not exceeding in the case of land one-eighth and in the case of houses one-twelfth part of the duty on an amount equal to the annual value."
1 Geo. 5, c. 2	The Revenue Act, 1911.	Section eleven.

CHAPTER 11.

[POSTPONEMENT OF PAYMENTS ACT, 1914.]

An Act to authorise His Majesty by Proclamation to suspend temporarily the payment of Bills of Exchange and payments in pursuance of other obligations.

[3rd August 1914.

[Printed, 58 SOLICITORS' JOURNAL, p. 759.]

CHAPTER 12.

[ALIENS RESTRICTION ACT, 1914.]

An Act to enable His Majesty in time of war or imminent national danger or great emergency by Order in Council to impose Restrictions on Aliens and make such provisions as appear necessary or expedient for carrying such restrictions into effect.

[5th August, 1914.

[Printed, 58 SOLICITORS' JOURNAL, p. 770.]

CHAPTER 13.

[PRIZE COURTS (PROCEDURE) ACT, 1914.]

An Act to amend the Law relating to Procedure in Prize Courts.

[5th August 1914.

Be it enacted, &c. :

1. *Procedure in prize courts.* (1) As from the date when rules under an Order in Council made after the passing of this Act in pursuance of section three of the Prize Courts Act, 1894 (57 & 58 Vict. c. 39), regulating the procedure and practice in prize courts, come into operation, such of the provisions of the Naval Prize Act, 1864 (27 & 28 Vict. c. 25), as are specified in the Schedule to this Act (being enactments relating to the practice and procedure in prize courts) shall be repealed;

Provided that nothing in such repeal shall have the effect of extending section sixteen of that Act to ships of war taken as prize, and accordingly that section shall have effect as if the following words were inserted therein:—"Nothing in this section shall apply to ships of war taken as prize."

(2) Any cause or proceeding commenced in any prize court before such rules as aforesaid come into operation as respects that court may, as the court directs, be either—

- recommenced and proceeded with in accordance with the said rules; or
- continued in accordance with the said rules subject to such adaptations as the court may deem necessary to make them applicable to the case; or

(c) continued to the determination thereof in accordance with the procedure applicable to the case at the commencement of this cause or proceeding.

2. *Short title and construction.* This Act may be cited as the Prize Courts (Procedure) Act, 1914, and shall be construed as one with the Naval Prize Act, 1864; and that Act and the Prize Courts Act, 1894, and this Act may be cited together as the Naval Prize Acts, 1864 to 1914.

SCHEDULE.

PROVISIONS OF NAVAL PRIZE ACT, 1864,
REPEALED.

Sections 7 and 8, 18 to 29, 32, 33, and 36, and in section 41, the words "either by warrant of arrest against the ship or goods, or by monition and attachment against the owner."

CHAPTER 14.

[CURRENCY AND BANK NOTES ACT, 1914.]

An Act to authorise the issue of Currency Notes, and to make provision with respect to the Note Issue of Banks.

[6th August 1914.

[Printed, 58 SOLICITORS' JOURNAL, p. 770.]

CHAPTER 15.

[EXPORTATION OF HORSES ACT, 1914.]

An Act to amend the Diseases of Animals Act, 1910, in respect of the Exportation of Horses.

[7th August 1914.

Be it enacted, &c. :

1. *Amendments of 10 Edw. 7, & 1 Geo. 5 c. 20.* (1) The prohibition contained in section one of the Diseases of Animals Act, 1910, on shipping or attempting to ship unfit horses in certain cases, shall be extended so as to include any horse unless certified by a veterinary inspector in accordance with that section, to be capable of being worked without suffering, and accordingly subsection (1) of that section shall have effect as though after the word "cruelty" there were inserted the words "and to be capable of being worked without suffering."

(2) The said section one shall have effect as though the following subsection were substituted for subsection (2) thereof:—

(2) If any horse examined under this Act is found by the veterinary inspector to be in such a physical condition that it is cruel to keep it alive or to be permanently incapable of being worked without suffering, the inspector may, whether the owner consents or not, slaughter it, or cause it to be slaughtered, in such a manner as to inflict as little suffering as possible.

2. *Short title and commencement.* (1) This Act may be cited as the Exportation of Horses Act, 1914; and the Diseases of Animals Acts, 1894 to 1911, the Diseases of Animals Act, 1910, and this Act may be cited together as the Diseases of Animals Acts, 1894 to 1914.

(2) This Act shall come into operation on the first day of October, nineteen hundred and fourteen.

CHAPTER 16.

[TRADE MARKS ACT, 1914.]

An Act to amend section sixty-four of the Trade Marks Act, 1905.

[7th August 1914.

Be it enacted, &c. :

1. *Amendment of 5 Edw. 7, c. 15, s. 64.* Clause (c) of subsection (10), of section sixty-four of the Trade Marks Act, 1905, shall be and the same is hereby amended by insertion therein of the words "in respect of cotton piece goods or cotton yarn" immediately after the opening words, "No registration of a cotton mark."

2. *Construction and commencement of Act.* This Act shall be construed as one with the Trade Marks Act, 1905, and the said Act of 1905

shall be construed and take effect from the date of its passing as if this Act had then formed part thereof.

3. *Short title.* This Act may be cited as the Trade Marks Act, 1914; and the Trade Marks Act, 1905, and this Act may be cited together as the Trade Marks Acts, 1905 and 1914.

CHAPTER 17.

[BRITISH NATIONALITY AND STATUS OF
ALIENS ACT, 1914.]

An Act to consolidate and amend the Enactments relating to British Nationality and the Status of Aliens.

[7th August 1914.

Be it enacted, &c. :

PART I.

NATURAL-BORN BRITISH SUBJECTS.

1. *Definition of natural-born British subject.*

(1) The following persons shall be deemed to be natural-born British subjects, namely:—

- Any person born within His Majesty's dominions and allegiance; and
- Any person born out of His Majesty's dominions, whose father was a British subject at the time of that person's birth and either was born within His Majesty's allegiance or was a person to whom a certificate of naturalization had been granted; and
- Any person born on board a British ship whether in foreign territorial waters or not;

Provided that the child of a British subject, whether that child was born before or after the passing of this Act, shall be deemed to have been born within His Majesty's allegiance if born in a place where by treaty, capitulation, grant, usage, sufferance, or other lawful means, His Majesty exercises jurisdiction over British subjects.

(2) A person born on board a foreign ship shall not be deemed to be a British subject by reason only that the ship was in British territorial waters at the time of his birth.

(3) Nothing in this section shall, except as otherwise expressly provided, affect the status of any person born before the commencement of this Act.

PART II.

NATURALIZATION OF ALIENS.

2. *Certificate of naturalization.* (1) The Secretary of State may grant a certificate of naturalization to an alien who makes an application for the purpose, and satisfies the Secretary of State—

- that he has either resided in His Majesty's dominions for a period of not less than five years in the manner required by this section, or been in the service of the Crown for not less than five years within the last eight years before the application; and
- that he is of good character and has an adequate knowledge of the English language; and
- that he intends if his application is granted either to reside in His Majesty's dominions or to enter or continue in the service of the Crown.

(2) The residence required by this section is residence in the United Kingdom for not less than one year immediately preceding the application, and previous residence, either in the United Kingdom or in some other part of His Majesty's dominions, for a period of four years within the last eight years before the application.

(3) The grant of a certificate of naturalization to any such alien shall be in the absolute discretion of the Secretary of State, and he may, with or without assigning any reason, give or withhold the certificate as he thinks most conducive to the public good, and no appeal shall lie from his decision.

(4) A certificate of naturalization shall not take

effect until the applicant has taken the oath of allegiance.

(5) In the case of a woman who was a British subject previously to her marriage to an alien, and whose husband has died or whose marriage has been dissolved, the requirements of this section as to residence shall not apply and the Secretary of State may in any other special case, if he thinks fit, grant a certificate of naturalization, although the four years' residence or five years' service has not been within the last eight years before the application.

3. Effect of certificate of naturalization.] (1) A person to whom a certificate of naturalization is granted by a Secretary of State shall, subject to the provisions of this Act, be entitled to all political and other rights, powers and privileges, and be subject to all obligations, duties and liabilities, to which a natural-born British subject is entitled or subject, and, as from the date of his naturalization, have to all intents and purposes the status of a natural-born British subject.

(2) Section three of the Act of Settlement [12 & 13 Will. 3, c. 2] (which disqualifies naturalized aliens from holding certain offices) shall have effect as if the words "naturalized or" were omitted therefrom.

4. Special certificate in case of doubt.] The Secretary of State may in his absolute discretion, in such cases as he thinks fit, grant a special certificate of naturalization to any person with respect to whose nationality as a British subject a doubt exists, and he may specify in the certificate that the grant thereof is made for the purpose of quieting doubts as to the right of the person to be a British subject, and the grant of such a special certificate shall not be deemed to be any admission that the person to whom it was granted was not previously a British subject.

5. Persons under disability.] (1) Where an alien obtains a certificate of naturalization, the Secretary of State may, if he thinks fit, on the application of that alien, include in the certificate the name of any child of the alien born before the date of the certificate and being a minor, and that child shall thereupon, if not already a British subject, become a British subject; but any such child may, within one year after attaining his majority, make a declaration of alienage, and shall thereupon cease to be a British subject.

(2) The Secretary of State may, in his absolute discretion in any special case in which he thinks fit, grant a certificate of naturalization to any minor, although the conditions required by this Act have not been complied with.

(3) Except as provided by this section, a certificate of naturalization shall not be granted to any person under disability.

6. Persons previously naturalized.] An alien who has been naturalized before the passing of this Act may apply to the Secretary of State for a certificate of naturalization under this Act, and the Secretary of State may grant to him a certificate on such terms and conditions as he may think fit.

7. Revocation of certificate of naturalization.] (1) Where it appears to the Secretary of State that a certificate of naturalization granted by him has been obtained by false representations or fraud, the Secretary of State may by order revoke the certificate, and the order of revocation shall have effect from such date as the Secretary of State may direct.

(2) Where the Secretary of State revokes a certificate of naturalization, he may order the certificate to be given up and cancelled, and any person refusing or neglecting to give up the certificate shall be liable on summary conviction to a fine not exceeding one hundred pounds.

8. Power of Governments of British possessions to grant certificates of Imperial naturalization.]

(1) The Government of any British Possession shall have the same power to grant a certificate of naturalization as the Secretary of State has under this Act, and the provisions of this Act as to the grant and revocation of such a certificate shall apply accordingly, with the substitution of the Government of the Possession for the Secretary of State, and the Possession for the United King-

dom, and also, in a Possession where any language is recognised as on an equality with the English language, with the substitution of the English language or that language for the English language:

Provided that, in any British Possession other than British India and a Dominion specified in the First Schedule to this Act, the powers of the Government of the Possession under this section shall be exercised by the Governor or a person acting under his authority, but shall be subject in each case to the approval of the Secretary of State, and any certificate proposed to be granted shall be submitted to him for his approval.

(2) Any certificate of naturalization granted under this section shall have the same effect as a certificate of naturalization granted by the Secretary of State under this Act.

9. Application of Part II. to Self-Governing Dominions.] (1) This Part of this Act shall not, nor shall any certificate of naturalization granted thereunder, have effect within any of the Dominions specified in the First Schedule to this Act, unless the Legislature of that Dominion adopts this Part of this Act.

(2) Where the Legislature of any such Dominion has adopted this Part of this Act, the Government of the Dominion shall have the like powers to make regulations with respect to certificates of naturalization and to oaths of allegiance as are conferred by this Act on the Secretary of State.

(3) The Legislature of any such Dominion which adopts this Part of this Act may provide how and by what Department of the Government the powers conferred by this Part of this Act on the Government of a British Possession are to be exercised.

(4) The Legislature of any such Dominion may at any time rescind the adoption of this Part of this Act, provided that no such rescission shall prejudicially affect any legal rights existing at the time of such rescission.

PART III.

GENERAL.

National Status of Married Women and Infant Children.

10. National status of married women.] The wife of a British subject shall be deemed to be a British subject, and the wife of an alien shall be deemed to be an alien: Provided that where a man ceases during the continuance of his marriage to be a British subject it shall be lawful for his wife to make a declaration that she desires to retain British nationality, and thereupon she shall be deemed to remain a British subject.

11. Status of widows.] A woman who, having been a British subject, has by, or in consequence of, her marriage become an alien, shall not, by reason only of the death of her husband, or the dissolution of her marriage, cease to be an alien, and a woman who, having been an alien, has by, or in consequence of, her marriage become a British subject, shall not, by reason only of the death of her husband or the dissolution of her marriage, cease to be a British subject.

12. Status of children.] (1) Where a person being a British subject ceases to be a British subject, whether by declaration of alienage or otherwise, every child of that person, being a minor, shall thereupon cease to be a British subject, unless such child, on that person ceasing to be a British subject, does not become by the law of any other country naturalized in that country:

Provided that, where a widow who is a British subject marries an alien, any child of hers by her former husband shall not, by reason only of her marriage, cease to be a British subject, whether he is residing outside His Majesty's dominions or not.

(2) Any child who has so ceased to be a British subject may, within one year after attaining his majority, make a declaration that he wishes to resume British nationality, and shall thereupon again become a British subject.

Loss of British Nationality.

13. Loss of British nationality by foreign naturalization.] A British subject who, when in any foreign state and not under disability, by obtaining a certificate of naturalization, or by any other voluntary and formal act, becomes naturalized therein, shall thenceforth be deemed to have ceased to be a British subject.

14. Declaration of alienage.] (1) Any person who by reason of his having been born within His Majesty's dominions and allegiance or on board a British ship is a natural-born British subject, but who at his birth or during his minority became under the law of any foreign state a subject also of that state, and is still such a subject, may, if of full age and not under disability, make a declaration of alienage, and on making the declaration shall cease to be a British subject.

(2) Any person who though born out of His Majesty's dominions is a natural-born British subject may, if of full age and not under disability, make a declaration of alienage, and on making the declaration shall cease to be a British subject.

15. Power of naturalized subjects to divest themselves of their status in certain cases.] Where His Majesty has entered into a convention with any foreign state to the effect that the subjects or citizens of that state to whom certificates of naturalization have been granted may divest themselves of their status as such subjects, it shall be lawful for His Majesty, by Order in Council, to declare that the convention has been entered into by His Majesty; and from and after the date of the Order any person having been originally a subject or citizen of the state therein referred to, who has been naturalized as a British subject, may, within the limit of time provided in the convention, make a declaration of alienage, and on his making the declaration he shall be regarded as an alien and as a subject of the state to which he originally belonged as aforesaid.

16. Saving of obligations incurred before loss of nationality.] Where any British subject ceases to be a British subject, he shall not thereby be discharged from any obligation, duty or liability in respect of any act done before he ceased to be a British subject.

Status of Aliens.

17. Capacity of alien as to property.] Real and personal property of every description may be taken, acquired, held and disposed of by an alien in the same manner in all respects as by a natural-born British subject; and a title to real and personal property of every description may be derived through, from or in succession to an alien in the same manner in all respects as through, from or in succession to a natural-born British subject:

Provided that this section shall not operate so as to—

- (1) Confer any right on an alien to hold real property situate out of the United Kingdom; or
- (2) Qualify an alien for any office or for any municipal, parliamentary, or other franchise; or
- (3) Qualify an alien to be the owner of a British ship; or
- (4) Entitle an alien to any right or privilege as a British subject, except such rights and privileges in respect of property as are hereby expressly given to him; or
- (5) Affect any estate or interest in real or personal property to which any person has or may become entitled, either immediately or immediately, in possession or expectancy, in pursuance of any disposition made before the twelfth day of May, eighteen hundred and seventy, or in pursuance of any devolution by law on the death of any person dying before that day.

18. Trial of alien.] An alien shall be triable

in the same manner as if he were a natural-born British subject.

Procedure and Evidence.

19. *Regulations by Secretary of State.* (1) The Secretary of State may make regulations generally for carrying into effect the objects of this Act, and in particular with respect to the following matters:—

- (a) The form and registration of certificates of naturalization granted by the Secretary of State;
- (b) The form and registration of declarations of alienage and declarations of resumption or retention of British nationality;
- (c) The registration by officers in the diplomatic or consular service of His Majesty of the births and deaths of British subjects born or dying out of His Majesty's dominions;
- (d) The time within which the oath of allegiance is to be taken after the grant of a certificate of naturalization;
- (e) The persons by whom the oath of allegiance may be administered, and the persons before whom declarations of alienage and declarations of resumption of British nationality may be made;
- (f) Whether or not oaths of allegiance are to be subscribed as well as taken, and the form in which the taking and subscription are to be attested;
- (g) The registration of oaths of allegiance;
- (h) The persons by whom certified copies of oaths of allegiance may be given; and the proof in any legal proceeding of any such oaths;
- (i) The transmission to the United Kingdom, for the purpose of registration or safe keeping or of being produced as evidence, of any declarations, certificates or oaths made, granted or taken out of the United Kingdom in pursuance of this Act or of any Act hereby repealed, or of any copies thereof, also of copies of entries contained in any register kept out of the United Kingdom in pursuance of this Act or any Act hereby repealed;

(j) With the consent of the Treasury, the imposition and application of fees in respect of any registration authorised to be made by this Act or any Act hereby repealed, and in respect of the making of any declaration or the grant of any certificate authorised to be made or granted by this Act or any Act hereby repealed, and in respect of the administration or registration of any oath: Provided that in the case of a woman who was a British subject previously to her marriage to an alien, and whose husband has died or whose marriage has been dissolved, the fee for the grant of a certificate shall not exceed five shillings.

(2) Any regulation made by the Secretary of State in pursuance of this Act shall be of the same force as if it had been enacted therein, but shall not, so far as respects the imposition of fees, be in force in any British Possession, and shall not, so far as respects any other matter, be in force in any British Possession in which any Act or ordinance, or, in the case of a Dominion specified in the First Schedule to this Act, any regulation made by the Government of the Dominion under Part II. of this Act, to the contrary of, or inconsistent with, any such regulation may for the time being be in force.

(3) Any regulations made by the Secretary of State under any Act hereby repealed shall continue in force and be deemed to have been made under this Act.

20. *Evidence of declarations.* Any declaration made under this Act or under any Act hereby repealed may be proved in any legal proceeding by the production of the original declaration or of any copy thereof certified to be a true

copy by the Secretary of State, or by any person authorised by him in that behalf, and the production of the declaration or copy shall be evidence of the person therein named as declarant having made the declaration at the date therein mentioned.

21. *Evidence of certificates of naturalization.* A certificate of naturalization may be proved in any legal proceeding by the production of the original certificate or of any copy thereof certified to be a true copy by the Secretary of State or by any person authorised by him in that behalf.

22. *Evidence of entries in registers.* Entries in any register made in pursuance of this Act or under any Act hereby repealed may be proved by such copies and certified in such manner as may be directed by the Secretary of State, and the copies of any such entries shall be evidence of any matters, by this Act or by any Act hereby repealed or by any regulation of the Secretary of State authorised to be inserted in the register.

23. *Penalty for false representation or statement.* If any person for any of the purposes of this Act knowingly makes any false representation or any statement false in a material particular he shall, in the United Kingdom, be liable on summary conviction in respect of each offence to imprisonment with or without hard labour for any term not exceeding three months.

24. *Form of oath of allegiance.* The oath of allegiance shall be in the form set out in the Second Schedule to this Act.

Supplemental.

25. *Saving for letters of denization.* Nothing in this Act shall affect the grant of letters of denization by His Majesty.

26. *Saving for powers of Legislatures and Governments of British possessions.* (1) Nothing in this Act shall take away or abridge any power vested in, or exercisable by, the Legislature or Government of any British Possession, or affect the operation of any law at present in force which has been passed in exercise of such a power, or prevent any such Legislature or Government from treating differently different classes of British subjects.

(2) All laws, statutes and ordinances made by the Legislature of a British Possession for imparting to any person any of the privileges of naturalization to be enjoyed by him within the limits of that Possession shall, within those limits, have the authority of law.

(3) Where any parts of His Majesty's Dominions are under both a central and a local legislature, the expression "British Possession" shall, for the purposes of this section, include both all parts under the central legislature and each part under a local legislature: Provided that nothing in this provision shall be construed as validating any law, statute or ordinance with respect to naturalization made by any such local legislature in any case where the central legislature possesses exclusive legislative authority with respect to naturalization.

27. *Definitions.* (1) In this Act, unless the context otherwise requires,—

The expression "British subject" means a person who is a natural-born British subject, or a person to whom a certificate of naturalization has been granted;

The expression "alien" means a person who is not a British subject;

The expression "certificate of naturalization" means a certificate of naturalization granted under this Act or under any Act repealed by this or any other Act;

The expression "disability" means the status of being a married woman, or a minor, lunatic, or idiot;

The expression "territorial waters" includes any port, harbour or dock.

(2) Where in pursuance of this Act the name of a child is included in a certificate of naturalization granted to his parent, such child shall, for the purposes of this Act, be deemed to be a

person to whom a certificate of naturalization has been granted.

28. *Repeal, short title, and commencement.* (1) The enactments mentioned in the Third Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

(2) This Act may be cited as the British Nationality and Status of Aliens Act, 1914.

(3) This Act shall come into operation on the first day of January nineteen hundred and fifteen.

SCHEDULES.

FIRST SCHEDULE.

[Sections 8, 9, 19.]

LIST OF DOMINIONS.

The Dominion of Canada.
The Commonwealth of Australia (including for the purposes of this Act the territory of Papua and Norfolk Island).

The Dominion of New Zealand.
The Union of South Africa,
Newfoundland.

SECOND SCHEDULE.

[Section 24.]

OATH OF ALLEGIANCE.

"I, A.B., swear by Almighty God that I will be faithful and bear true allegiance to His Majesty, King George the Fifth, His Heirs and Successors, according to law."

THIRD SCHEDULE.

[Section 28.]

ENACTMENTS REPEALED.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
25 Edw. 3, stat. 1.	Statute for those who are born in parts beyond the seas.	From "and in the right of other children" to the end of the statute.
42 Edw. 3, c. 10.	A statute made at Westminster on the first day of May in the forty-second year of King Edward III.	The whole chapter.
12 & 13 Will. 3, c. 2.	The Act of Settlement.	In section three the words "naturalized or."
7 Anne, c. 5.	The Foreign Protestants (Naturalization) Act, 1708.	The whole Act.
4 Geo. 2, c. 21.	The British Nationality Act, 1730.	The whole Act.
13 Geo. 3, c. 21.	The British Nationality Act, 1772.	The whole Act.
33 & 34 Vict, c. 14.	The Naturalization Act, 1870.	The whole Act.
33 & 34 Vict, c. 102.	The Naturalization Oath Act, 1870.	The whole Act.
58 & 59 Vict, c. 43.	The Naturalization Act, 1895.	The whole Act.

CHAPTER 18.

[PATENTS AND DESIGNS ACT, 1914.]

An Act to amend section ninety-one of the Patents and Designs Act, 1907.

[7th August, 1914.]

Whereas by a Convention made at Washington in nineteen hundred and eleven, to which His Majesty was a party, an amendment was made in Article IV. (a) of the International Convention for the Protection of Industrial Property made at

Paris in eighteen hundred and eighty-three, whereby the rights of priority conferred by that Article on persons who have applied for protection for an invention, design or trade-mark in foreign States were extended to the legal representatives and assignees of such applicants, and it is expedient for the purpose of enabling effect to be given to the first-mentioned Convention that such amendment as hereinafter mentioned should be made in subsection (1) of section ninety-one of the Patents and Designs Act, 1907:

Be it therefore enacted, &c.:-

1. *Amendment of s. 91 of 7 Edw. 7, c. 29.* The rights conferred by section ninety-one of the Patents and Designs Act, 1907, on a person who has applied for protection for any invention, design or trade-mark in a foreign State shall extend to his legal representatives and assignees, and accordingly subsection (1) of that section shall have effect as if after the words "any person who has applied for protection for any invention, design, or trade-mark in that State" there were inserted the words "or his legal representative or assignee."

2. *Short title.* This Act may be cited as the Patents and Designs Act, 1914; and the Patents and Designs Act, 1907, the Patents and Designs Act, 1908, and this Act may be cited together as the Patents and Designs Acts, 1907 to 1914.

CHAPTER 19.

[ISLE OF MAN (CUSTOMS) ACT, 1914.]

An Act to amend the Law with respect to Customs in the Isle of Man.

[7th August, 1914.]

CHAPTER 20.

[EDUCATION (PROVISION OF MEALS) ACT, 1914.]

An Act to amend the Education (Provision of Meals) Act, 1906.

[7th August, 1914.]

Be it enacted, &c.:-

1. *Extension of powers as to feeding of school children.* A local education authority may, without an application to the Board of Education, spend out of the rates such sums as may be necessary to meet the cost of the provision of food under section three of the Education (Provision of Meals) Act, 1906 (6 Edw. 7, c. 57), and accordingly in that section the words "apply to the Board of Education, and that Board may authorise them to," and from "provided that" to the end of the section, shall be repealed.

2. *Act to apply both on days when the school meets and on other days.* The powers of a local education authority under the Education (Provision of Meals) Act, 1906, as amended by this Act, shall be exercisable in respect of children attending a public elementary school within their area, both on days when the school meets and on other days.

3. *Short title.* This Act may be cited as the Education (Provision of Meals) Act, 1914, and the Education (Provision of Meals) Act, 1906, and this Act may be cited together as the Education (Provision of Meals) Acts, 1906 and 1914.

CHAPTER 21.

[COUNTY AND BOROUGH COUNCILS (QUALIFICATION) ACT, 1914.]

An Act to extend the Qualification for Membership of County and Borough Councils.

[7th August, 1914.]

Be it enacted, &c.:-

1. *Extension of qualification to be elected on county or borough councils.* (1) Notwithstanding anything in the Municipal Corporations Act, 1882 [45 & 46 Vict. c. 50], or any other Act, any person of either sex shall be qualified to be elected and to be a councillor or alderman of a county council or of a borough council and may be nominated for election as a councillor, if that person has resided within the county or borough, as the

case may be, during the whole of the twelve months preceding the election:

Provided that a woman, if elected as chairman of a county council or mayor of a borough, shall not, by virtue of holding or having held that office, be a justice of the peace.

(2) The qualification under this provision shall be alternative for, and shall not repeal or take away, any other qualification and shall not remove or affect any disqualification.

2. *Short title and application.* (1) This Act may be cited as the County and Borough Councils (Qualification) Act, 1914.

(2) This Act shall not apply to Scotland or Ireland.

CHAPTER 22.

[COAL MINES ACT, 1914.]

An Act to amend the Coal Mines Act, 1911.

[7th August, 1914.]

Be it enacted, &c.:-

1. *Extension of s. 11 of 1 & 2 Geo. 5, c. 50 to owners and agents.* Section eleven of the Coal Mines Act, 1911, which relates to inquiries into the conduct of holders of certificates of competency, shall apply to any owner or agent of a mine taking part in the technical management thereof who is alleged, by reason of incompetency or gross negligence or misconduct in such management, to be unfit to continue to hold a certificate of competency.

2. *Provisions as to offences.* Where, with respect to, or in consequence of, any accident in a mine, a special report is made by an inspector, or a report is made by the court appointed to hold a formal investigation, or a coroner's inquest is held, and it appears from the report, or from the proceedings at the inquest, that any of the provisions of the Coal Mines Act, 1911, or the orders or regulations made thereunder, were not being complied with at the time of the accident, summary proceedings against any person liable to be proceeded against in respect of such non-compliance may be commenced at any time within three months after the making of the report or the conclusion of the inquest.

3. *Minor amendments.* The amendments specified in the second column of the Schedule to this Act, which relate to minor details, shall be made in the provisions of the Coal Mines Act, 1911, specified in the first column of that schedule.

4. *Short title and commencement.* This Act may be cited as the Coal Mines Act, 1914; and the Coal Mines Regulation Acts 1887 to 1908, the Coal Mines Act, 1911, and this Act may be cited together as the Coal Mines Acts, 1887 to 1914.

SCHEDULE.

Enactment to be amended.	Nature of Amendment.
The Coal Mines Act, 1911:- s. 42 (2) -	For the words "before the passing of this Act" there shall be substituted the words "before the commencement of this Act."
s. 70 -	For the words "steam-engine room" there shall be substituted the words "engine room."
s. 114 -	After the words "under this Act may be" there shall be inserted the words "made or granted and."

CHAPTER 23.

[EXPIRING LAWS CONTINUANCE ACT, 1914.]

An Act to continue various Expiring Laws.

[7th August, 1914.]

CHAPTER 24.

[APPROPRIATION ACT, 1914.]

An Act to apply a sum out of the Consolidated Fund to the service of the year ending on the thirty-first day of March one thousand nine hundred and fifteen, and to appropriate the Supplies granted in this Session of Parliament.

[7th August, 1914.]

CHAPTER 25.

[ELECTORAL DISABILITIES (NAVAL AND MILITARY SERVICE) REMOVAL ACT, 1914.]

An Act to remove electoral disabilities which may arise in the case of members of the Reserve and Territorial Forces and in the case of Volunteers by reason of absence on the Naval or Military service of the Crown.

[7th August, 1914.]

Be it enacted, &c.:-

1. *Absence of person in pursuance of naval or military duties not to disqualify as elector.* (1) A person shall not be disqualified for being registered for voting, either as a parliamentary or as a local government elector, in respect of a qualification for which any residence or inhabitation is required, by reason only that during the whole or any part of the qualifying period he has as a member of the naval reserve, or the army reserve, or a territorial force, or as a volunteer, been absent on actual naval or military service on behalf of the Crown, whether beyond the seas or not.

(2) A person so absent shall not be disqualified by reason of his wife or children having received poor relief during such absence.

(3) The claim to be registered as a lodger may be made and signed, in the case of a person so absent, by any other person on his behalf, and the form of the claim and declaration may in those cases be modified accordingly.

(4) In this Act the expression "volunteer" means any person who is entered or enlisted for temporary service only in connection with any war as a member of His Majesty's naval or military forces.

2. *Short title and duration.* This Act may be cited as the Electoral Disabilities (Naval and Military Service) Removal Act, 1914, and shall apply only to absence during the continuance of the present war in Europe.

CHAPTER 26.

[ARMY (SUPPLY OF FOOD, FORAGE, AND STORES) ACT, 1914.]

An Act to enable Food, Forage, and Stores for His Majesty's Forces to be requisitioned in cases of emergency.

[7th August, 1914.]

[Printed, 58 SOLICITORS' JOURNAL, p. 771: Repealed by Articles of Commerce (Returns, &c.) Act, 1914 (4 & 5 Geo. 5, c. 65), 58, SOLICITORS' JOURNAL, p. 811.]

CHAPTER 27.

[PATENTS, DESIGNS, AND TRADE-MARKS (TEMPORARY RULES) ACT, 1914.]

An Act to extend the powers of the Board of Trade during the continuance of the present hostilities to make Rules under the Patents and Designs Act, 1907, and the Trade-Marks Act, 1905.

[7th August, 1914.]

[Printed, 58 SOLICITORS' JOURNAL, p. 840.]

CHAPTER 28.

[MALL APPROACH (IMPROVEMENT) ACT, 1914.]

An Act to enable the London County Council to acquire certain lands and execute certain improvements in the City of Westminster, and for other purposes in connexion therewith.

[7th August, 1914.]

CHAPTER 29.

[DEFENCE OF THE REALM ACT, 1914.]

An Act to confer on His Majesty in Council power to make Regulations during the present War for the Defence of the Realm.

[8th August, 1914.]

[Printed, 58 SOLICITORS' JOURNAL, p. 771.]

CHAPTER 30.

[INJURIES IN WAR (COMPENSATION) ACT, 1914.]

An Act to provide for the grant of pensions and other allowances to certain persons if injured whilst employed in connexion with warlike operations, and to their dependants, and for purposes connected therewith.

[10th August, 1914.]

Be it enacted, &c. :-

1. *Provision of pensions and other allowances to civilians injured in connexion with warlike operations, &c.* (1) His Majesty may by Order in Council frame a scheme as to the pension and grants, and other allowances in the nature thereof, to be paid to persons (not being officers or seamen of the Royal Navy, or officers or soldiers of any of His Majesty's land or marine forces), in respect of injuries suffered by them whilst employed afloat by or under the Admiralty or Army Council in connexion with warlike operations in which His Majesty is engaged, and in the case of their death to their widows and other dependants.

(2) The Order shall specify the persons to whom the Order applies and the conditions under which it becomes applicable, and may include persons not in the direct employment of the Admiralty or Army Council, and persons employed on commissioned ships, notwithstanding that by reason of such employment they are subject to the Naval Discipline Act.

(3) A person to whom any such Order in Council applies shall not, nor in the case of his death shall his widow or other dependants or his personal representatives, in respect of any injury suffered by him whilst the Order in Council so applies to him, be entitled to any pensions or other benefits under any other Order in Council or any warrant or regulations relating to officers and men in the naval or military service of the Crown, or to any compensation under the Workmen's Compensation Act, 1906 (6 Edw. 7, c. 58), or to any compensation or damages at common law or under the Employers' Liability Act, 1880, 43 & 44 Vict., c. 42, or any other statute, or to any gratuity or any superannuation or other allowance under the Superannuation Acts, 1834 to 1909, or to any pension or allowance under the Greenwich Hospital Acts, 1865 to 1898, except so far as the Order in Council otherwise provides.

(4) All pensions, grants, and other allowances under this Act shall be paid out of moneys provided by Parliament.

(5) An Order in Council under this Act may provide that the Order shall have effect as from the third day of August, nineteen hundred and fourteen, and any such Order in Council may be revoked or varied by a subsequent Order.

2. *Short title.* This Act may be cited as the Injuries in War (Compensation) Act, 1914.

CHAPTER 31.

[HOUSING ACT, 1914.]

An Act to make provision with respect to the Housing of Persons employed by or on behalf of Government Departments where sufficient dwelling accommodation is not available.

[10th August, 1914.]

CHAPTER 32.

[LABOURERS (IRELAND) ACT, 1914.]

An Act to amend the Law relating to Labourers in Ireland.

[10th August, 1914.]

CHAPTER 33.

[PUBLIC WORKS LOANS ACT, 1914.]

An Act to grant Money for the purpose of certain Local Loans out of the Local Loans Fund, and for other purposes relating to Local Loans.

[10th August, 1914.]

CHAPTER 34.

[POLICE RESERVISTS (ALLOWANCES) ACT, 1914.]

An Act to authorise the grant out of Police Funds of certain Allowances and Gratuities in respect of Police Reservists who are called out upon Permanent Service.

[10th August, 1914.]

CHAPTER 35.

[EDUCATION (PROVISION OF MEALS) (IRELAND) ACT, 1914.]

An Act to enable Local Authorities in Ireland to provide Meals for School Children.

[10th August, 1914.]

CHAPTER 36.

[OSBORNE ESTATE ACT, 1914.]

An Act to authorise the Extension of the Classes of Persons for whose benefit part of Osborne House is to be used and for other purposes connected therewith.

[10th August, 1914.]

CHAPTER 37.

[ANGLO-PERSIAN OIL COMPANY (ACQUISITION OF CAPITAL) ACT, 1914.]

An Act to provide Money for the purpose of the Acquisition of Share or Loan Capital of the Anglo-Persian Oil Company, Limited.

[10th August, 1914.]

CHAPTER 38.

[EAST AFRICAN PROTECTORATES (LOANS) ACT, 1914.]

An Act to authorise certain Loans to the Protectorates of British East Africa, Nyasaland, and Uganda.

[10th August, 1914.]

CHAPTER 39.

[COUNTY, TOWN, AND PARISH COUNCILS (QUALIFICATION) (SCOTLAND) ACT, 1914.]

An Act to extend the Qualification for Membership of County, Town, and Parish Councils in Scotland.

[10th August, 1914.]

CHAPTER 40.

[DISEASES OF ANIMALS (IRELAND) ACT, 1914.]

An Act to amend Subsection (5) of Section seventy-one of the Diseases of Animals Act, 1894.

[10th August, 1914.]

CHAPTER 41.

[INTERMEDIATE EDUCATION (IRELAND) ACT, 1914.]

An Act to amend the Law relating to Intermediate Education in Ireland and for other purposes connected therewith.

[10th August, 1914.]

CHAPTER 42.

[MERCHANT SHIPPING (CERTIFICATES) ACT, 1914.]

An Act to amend the Law relating to Examinations for Certificates of Competency.

[10th August, 1914.]

Be it enacted, &c. :-

1. *Examinations for certificates of competency as masters or mates.* (1) For the purpose of

granting certificates of competency as masters or mates to persons desirous of obtaining such certificates, examinations shall be held at such places as the Board of Trade direct.

(2) The Board of Trade may appoint times for the examinations, and may appoint, remove, and reappoint examiners to conduct the examinations, and determine the remuneration of those examiners, and may regulate the conduct of the examinations and the qualification of the applicants, and may do all such acts and things as they think expedient for the purpose of the examinations.

(3) Sections ninety-four and ninety-five of the Merchant Shipping Act, 1894 [57 & 58 Vict. c. 60], are hereby repealed.

2. *Short title and construction.* This Act may be cited as the Merchant Shipping (Certificates) Act, 1914, and the provisions of this Act shall be construed as if they were contained in Part II. of the Merchant Shipping Act, 1894; and the Merchant Shipping Acts, 1894 to 1913, and this Act may be cited together as the Merchant Shipping Acts, 1894 to 1914.

CHAPTER 43.

[ENTAIL (SCOTLAND) ACT, 1914.]

An Act to amend the Law of Entail in Scotland.

[10th August, 1914.]

CHAPTER 44.

[METROPOLITAN POLICE (EMPLOYMENT IN SCOTLAND) ACT, 1914.]

An Act to extend the Metropolitan Police Act, 1860, to Scotland.

[10th August, 1914.]

CHAPTER 45.

[ELEMENTARY EDUCATION (DEFECTIVE AND EPILEPTIC CHILDREN) ACT, 1914.]

An Act to amend the Law relating to the Education of Defective and Epileptic Children in England and Wales.

[10th August, 1914.]

Be it enacted, &c. :

1. *Duty to provide for education of mentally defective children.* (1) It shall be the duty of the local education authority for the purposes of the Elementary Education (Defective and Epileptic Children) Act, 1899 [62 & 63 Vict. c. 32] (herein called the principal Act), to make suitable provision, either alone or in conjunction with other local education authorities, for the education of children belonging to their area whose age exceeds seven years and who are ascertained to be mentally defective within the meaning of the principal Act, and accordingly after the words "they may" in subsection (1) of section two of the principal Act there shall be inserted the words "and in the case of mentally defective children whose age exceeds seven years shall" :
Provided that the duty of a local education authority under this Act shall not include—

(i) A duty to make provision for boarding and lodging a mentally defective child unless the Board of Education are satisfied, after considering the report of a duly qualified medical practitioner approved by the Board under section one of the principal Act, and after consultation with the local education authority, that suitable provision for the child's education cannot be made in any other way, and unless the grants payable out of moneys provided by Parliament in respect of a mentally defective child, so boarded and lodged, amount to not less than one-half of the cost of conveying such child to and from any school so provided, and of educating, boarding, and lodging and medically attending and treating that child (including, in the case of a school provided by a local education authority, expenditure out of income by the authority by way

of interest on or repayment of capital raised, or by way of rent or other similar payment, for the purposes of the provision of the school); or

- (ii) A duty to establish a certified school for boarding and lodging mentally defective children, unless the Board of Education are satisfied, after considering the reports of such medical practitioners, and after such consultation as aforesaid, that there are not less than forty-five such children belonging to the area for whose education suitable provision cannot be made in any other way.

(2) Subsection (6) of section two of the principal Act and the Elementary Education Amendment Act, 1903 [3 Edw. 7, c. 13], are hereby repealed.

(3) In case of doubt as to whether a child is or is not mentally defective within the meaning of the principal Act, the matter shall be determined by the Board of Education.

2. Discontinuance of certified school. In the event of a local education authority proving to the satisfaction of the Board of Education that the average attendance of mentally defective children at a certified class or school provided by such authority has, during the previous three years, been less than fifteen, it shall be lawful for such authority to discontinue the maintenance thereof, and thereupon the authority shall make such alternative provision for the mentally defective children belonging to their area as the Board of Education, after consultation with such authority, may approve.

3. Consultation of parents and co-operation with other authorities and persons. (1) A local education authority, before deciding what provision shall be made for the education of a mentally defective child, shall endeavour to ascertain the wishes of the parents of the child, and shall, so far as possible, give effect to their wishes.

(2) A local education authority, in the exercise and performance of their powers and duties under the principal Act and this Act, shall have regard to the existing supply of certified schools and classes, and shall, so far as possible, co-operate with other authorities or persons providing or having power to provide certified schools and classes.

4. Delegation of authority to the council of a county. The council of a non-county borough or urban district having powers and duties under the principal Act and this Act may, at any time after the passing of this Act, by agreement with the council of the county in which the borough or urban district is situate, and with the approval of the Board of Education, relinquish in favour of that council any of those powers or duties, and in that case the powers or duties of the authority so relinquished shall cease, and the area of the authority shall, as respects those powers or duties, be part of the area of the county council.

5. Enforcement of obligations of parents of mentally defective and epileptic children. (1) If a local education authority are satisfied, after consultation with the parent of a mentally defective or epileptic child over seven years of age, that the parent is not making suitable provision for the child's education, they may require the parent of the child to send the child to a certified class or school suitable for the child, and, if he fails without reasonable excuse to do so, may by complaint apply to a court of summary jurisdiction for an order requiring the child to be sent to a certified class or school suitable for the child and willing to receive him, being either such as the parent may select, or, if he does not select a suitable class or school, then such class or school as the court thinks expedient, and such an order shall be a sufficient authority for the conveyance of the child to the class or school named in the order:

Provided that no order shall be made requiring the child to be sent to a certified class or school which is not within reach of the child's residence or to a boarding school without the consent in writing of the parent, unless it is proved to the satisfaction of the court that such consent is un-

reasonably withheld, or that the parent cannot be found, but consent shall not be deemed to be unreasonably withheld if withheld with the bona fide intention of benefiting the child:

Provided further that if the court shall refuse to make an order the court, unless for good cause it shall otherwise order, shall award costs to the parent, and the costs so awarded shall, unless some reason to the contrary appears, include such sum as compensation for the expense, trouble, and loss of time incurred in or incidental to his attendance at the court as to the court may seem just and reasonable.

(2) The provisions of this section shall be in substitution for, and not in addition to, the power of a court of summary jurisdiction, on an attendance order not being complied with, to order the child to be sent to an industrial school under section twelve of the Elementary Education Act, 1876 [39 & 40 Vict. c. 79], as applied by the principal Act.

(3) Nothing in this section shall be construed as affecting the power of a parent to withdraw a child from school on proof to the satisfaction of the local education authority that he will make suitable provision for the child's education in some other way.

6. Certification of children. Section one of the Principal Act shall be construed and have effect as if the following words were added at the end of subsection (3) of that section:—

"Such duly qualified medical practitioner shall, if so directed by the local education authority, or, if he is so requested by the parent of the child, before giving a certificate under this section, consult the head teacher of the school, if any, which the child has been attending, or such other person as the local education authority may appoint for the purpose, and a copy of any report made by the head teacher or such other person shall be forwarded to the local education authority."

7. Return of Certificate. When a child is discharged from the special school or class on the ground that he is no longer mentally defective the local education authority shall return to the parent of the child any certificate certifying that the child was mentally defective, and such certificate shall not be received in evidence in any legal proceedings without the consent of the child or its parent.

8. Determination of residence. (1) For the purposes of the principal Act and this Act a child shall be deemed to belong to the area in which the residence or permanent home of the child is for the time being situate:

Provided that, in the case of a child in a school or boarded out in pursuance of the principal Act or this Act, the local education authority who are making provision for his education shall continue liable to make such provision pending the determination of any question which may be referred to the Board of Education under this section.

(2) If any question arises as to the area to which a child is to be deemed to belong, that question shall be determined by the Board of Education, and the Board on determining the question may direct such financial adjustments between the local education authorities concerned as they may consider just.

9. Short title and commencement. (1) This Act may be cited as the Elementary Education (Defective and Epileptic Children) Act, 1914, and shall be construed with the principal Act, and that Act and this Act may be cited together as the Elementary Education (Defective and Epileptic Children) Acts, 1899 to 1914; and the Education Acts, 1870 to 1911, the Education (Choice of Employment) Act, 1910, and this Act may be cited together as the Education Acts, 1870 to 1914.

(2) This Act shall come into operation on the first day of January, nineteen hundred and fifteen.

CHAPTER 46.

[MILK AND DAIRIES (SCOTLAND) ACT, 1914.]

An Act to ensure the Purity of Milk Supplies and to regulate Dairies in Scotland, and for other purposes connected therewith.

[10th August, 1914.]

CHAPTER 47.

[DEEDS OF ARRANGEMENT ACT, 1914.]

An Act to consolidate the Law relating to Deeds of Arrangement.

[10th August, 1914.]

Be it enacted, &c.:

PART I.

APPLICATION OF ACT.

1. Deeds of arrangement to which Act applies.

(1) A deed of arrangement to which this Act applies shall include any instrument of the classes hereinafter mentioned, whether under seal or not—

- (a) made by, for or in respect of the affairs of a debtor for the benefit of his creditors generally;
- (b) made by, for or in respect of the affairs of a debtor who was insolvent at the date of the execution of the instrument for the benefit of any three or more of his creditors:

otherwise than in pursuance of the law for the time being in force relating to bankruptcy.

(2) The classes of instrument hereinbefore referred to are—

- (a) an assignment of property;
- (b) a deed of or agreement for a composition;

and in cases where creditors of the debtor obtain and control over his property or business—

- (c) a deed of inspectorship entered into for the purpose of carrying on or winding up a business;
- (d) a letter of licence authorising the debtor or any other person to manage, carry on, realise, or dispose of a business with a view to the payment of debts; and
- (e) any agreement or instrument entered into for the purpose of carrying on or winding up the debtor's business, or authorising the debtor or any other person to manage, carry on, realise or dispose of the debtor's business with a view to the payment of his debts.

PART II.

AVOIDANCE OF DEEDS OF ARRANGEMENT WHERE STATUTORY CONDITIONS NOT COMPLIED WITH.

2. Avoidance of unregistered deeds of arrangement. (1) A deed of arrangement shall be void unless it is registered with the Registrar of Bills of Sale under this Act within seven clear days after the first execution thereof by the debtor or any creditor, or if it is executed in any place out of England, then within seven clear days after the time at which it would, in the ordinary course of post, arrive in England, if posted within one week after the execution thereof, and unless it bears such ordinary and ad valorem stamp as is provided by this Act.

3. Avoidance of deeds of arrangement unless assented to by a majority of the creditors.

(1) A deed of arrangement, which either is expressed to be or is in fact for the benefit of a debtor's creditors generally, shall be void unless, before or within twenty-one days after the registration thereof, or within such extended time as the High Court or the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business at the date of the execution of the deed may allow, it has received the assent of a majority in number and value of the creditors of the debtor.

(2) The list of creditors annexed to the affidavit of the debtor filed on the registration of the deed of arrangement shall be *prima facie* evidence of the names of the creditors and the amounts of their claims.

(3) The assent of a creditor for the purposes of subsection (1) of this section shall be established by his executing the deed of arrangement or sending to the trustee his assent in writing attested by a witness, but not otherwise.

(4) The trustee shall file with the Registrar of Bills of Sale at the time of the registration of a deed of arrangement, or, in the case of a deed of arrangement assented to after registration, within twenty-eight days after registration or within such extended time as the High Court or the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business at the date of the execution of the deed may allow, a statutory declaration by the trustee that the requisite majority of the creditors of the debtor have assented to the deed of arrangement, which declaration shall, in favour of a purchaser for value, be conclusive evidence, and, in other cases, be *prima facie* evidence, of the fact declared.

(5) In calculating a majority of creditors for the purposes of this section, a creditor holding security upon the property of the debtor shall be reckoned as a creditor only in respect of the balance (if any) due to him after deducting the value of such security, and creditors whose debts amount to sums not exceeding ten pounds shall be reckoned in the majority in value, but not in the majority in number.

PART III.

REGISTRATION OF DEEDS OF ARRANGEMENT.

4. *Registrar and office for registration.* (1) The Registrar of Bills of Sale shall be the registrar for the purposes of this Act.

(2) The Bills of Sale Department of the Central Office of the Supreme Court shall be the office for the registration of deeds of arrangement.

5. *Mode of registration.* (1) The registration of a deed of arrangement under this Act shall be effected in the following manner:—

A true copy of the deed, and of every schedule or inventory thereto annexed, or therein referred to, shall be presented to and filed with the registrar within seven clear days after the execution of the deed (in like manner as a bill of sale given by way of security for the payment of money is required to be filed), together with an affidavit verifying the time of execution, and containing a description of the residence and occupation of the debtor, and of the place or places where his business is carried on, and an affidavit by the debtor stating the total estimated amount of property and liabilities included under the deed, the total amount of the composition (if any) payable thereunder, and the names and addresses of his creditors.

(2) No deed shall be registered under this Act unless the original of the deed, duly stamped with the proper inland revenue duty, and in addition to such duty a stamp denoting a duty computed at the rate of one shilling for every hundred pounds or fraction of a hundred pounds of the sworn value of the property passing, or (where no property passes under the deed) the amount of composition payable under the deed, is produced to the registrar at the time of such registration.

6. *Form of register.* The registrar shall keep a register wherein shall be entered, as soon as conveniently may be after the presentation of a deed for registration, an abstract of the contents of every deed of arrangement registered under this Act, containing the following and any other prescribed particulars:—

- (a) The date of the deed;
- (b) The name, address, and description of the debtor, and the place or places where his business was carried on at the date of the execution of the deed, and the title of the firm or firms under which the debtor carried on business, and the name and address of the trustee (if any) under the deed;

(c) A short statement of the nature and effect of the deed, and of the composition in the pound payable thereunder;

(d) The date of registration;

(e) The amount of property and liabilities included under the deed, as estimated by the debtor.

7. *Rectification of register.* The High Court or a judge thereof, upon being satisfied that the omission to register a deed of arrangement within the time required by this Act or that the omission or mis-statement of the name, residence, or description of any person was accidental or due to inadvertence, or to some cause beyond the control of the debtor and not imputable to any negligence on his part, may, on the application of any party interested, and on such terms and conditions as are just and expedient, extend the time for registration, or order the omission or mis-statement to be supplied or rectified by the insertion in the register of the true name, residence, or description.

8. *Time for registration.* Where the time for registering a deed of arrangement expires on a Sunday, or other day on which the registration office is closed, the registration shall be valid if made on the next following day on which the office is open.

9. *Inspection of register and registered deeds.* Any person shall be entitled, at all reasonable times, to search the register on payment of one shilling, or such other fee as may be prescribed, and subject to such regulations as may be prescribed, and shall be entitled, at all reasonable times, to inspect, examine, and make extracts from any registered deed of arrangement, without being required to make a written application or to specify any particulars in reference thereto, upon payment of one shilling, or such other fee as may be prescribed, for each deed of arrangement inspected:

Provided that the extracts shall be limited to the dates of execution and of registration, the names, addresses, and descriptions of the debtor and of the parties to the deed, a short statement of the nature and effect of the deed, and any other prescribed particulars.

10. *Local registration of copy of deeds.* (1) Where the place of business or residence of the debtor who is one of the parties to a deed of arrangement, or who is referred to therein, is situate in some place outside the London Bankruptcy District, the registrar shall, within three clear days after registration, and in accordance with the prescribed directions, transmit a copy of the deed to the registrar of the county court in the district of which such place of business or residence is situate.

(2) Every copy so transmitted shall be filed, kept and indexed by the registrar of the county court in the prescribed manner, and any person may search, inspect, make extracts from, and obtain copies of, the registered copy, in the like manner and upon the like terms, as to payment or otherwise, as near as may be, as in the case of deeds registered under this Act.

PART IV.

PROVISIONS AS TO TRUSTEES.

11. *Security by trustee.* (1) The trustee under a deed of arrangement shall within seven days from the date on which the statutory declaration certifying the assent of the creditors is filed, give security in the prescribed manner to the registrar of the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business at the date of the execution of the deed, or, if he then resided or carried on business in the London Bankruptcy District, to the senior bankruptcy registrar of the High Court, in a sum equal to the estimated assets available for distribution amongst the unsecured creditors as shown by the affidavit filed on registration, to administer the deed properly and account fully for the assets which come to his hands, unless a majority in number and value of the debtor's creditors, either by resolution passed at a meeting convened by notice to all

the creditors, or by writing addressed to the trustee, dispense with his giving such security:

Provided that, when such a dispensation has been so given, the trustee shall forthwith make and file with the Registrar of Bills of Sale a statutory declaration to that effect, which declaration shall, in favour of a purchaser for value, be conclusive evidence, and, in other cases, be *prima facie* evidence, of the facts declared.

(2) If a trustee under a deed of arrangement fails to comply with the requirements of this section, the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business at the date of the execution of the deed, on the application of any creditor and after hearing such persons as it may think fit, may declare the deed of arrangement to be void or may make an order appointing another trustee in the place of the trustee appointed by the deed of arrangement.

(3) A certificate that the security required by this section has been given by a trustee, signed by the registrar to whom it was given and filed with the Registrar of Bills of Sale, shall be conclusive evidence of the fact.

(4) All moneys received by a trustee under a deed of arrangement shall be banked by him to an account to be opened in the name of the debtor's estate.

(5) In calculating a majority of creditors for the purposes of this section, a creditor holding security upon the property of the debtor shall be reckoned as a creditor only in respect of the balance (if any) due to him after deducting the value of such security, and creditors whose debts amount to sums not exceeding ten pounds shall be reckoned in the majority in value but not in the majority in number.

12. *Penalty on trustee acting when deed of arrangement void.* If a trustee acts under a deed of arrangement—

- (a) after it has to his knowledge become void by reason of non-compliance with any of the requirements of this Act or any enactment repealed by this Act; or
- (b) after he has failed to give security within the time and in the manner provided for by this Act or any enactment repealed by this Act,

he shall be liable on summary conviction to a fine not exceeding five pounds for every day between the date on which the deed became void or the expiration of the time within which security should have been given, as the case may be, and the last day on which he is proved to have acted as trustee, unless he satisfies the court before which he is accused that his contravention of the law was due to inadvertence, or that his action has been confined to taking such steps as were necessary for the protection of the estate.

13. *Transmission of accounts to Board of Trade.* (1) Every trustee under a deed of arrangement shall, at such times as may be prescribed, transmit to the Board of Trade, or as they direct, an account of his receipts and payments as trustee, in the prescribed form and verified in the prescribed manner.

(2) If any trustee fails to transmit such account, he shall be liable on summary conviction to a fine not exceeding five pounds for each day during which the default continues, and the judge of the High Court to whom bankruptcy business has been assigned may, for the purpose of enforcing the provisions of the last preceding subsection, exercise, on the application of the Board of Trade, all the powers conferred on the court by subsection (5) of section one hundred and five of the Bankruptcy Act, 1914 [4 & 5 Geo. 5, c. 59], in cases of bankruptcy.

(3) The accounts transmitted to the Board of Trade in pursuance of this section shall be open to inspection by the debtor or any creditor or other person interested on payment of the prescribed fee, and copies of or extracts from the accounts shall, on payment of the prescribed fee, be furnished to the debtor, the creditors, or any other persons interested.

(4) In this section the expression "trustee" shall include any person appointed to distribute

a composition or to act in any fiduciary capacity under any deed of arrangement, and the expression "prescribed" means prescribed by rules under the Bankruptcy Act, 1914.

14. Transmission of accounts to creditors.] Every trustee under a deed of arrangement shall, at the expiration of six months from the date of the registration of the deed, and thereafter at the expiration of every subsequent period of six months until the estate has been finally wound up, send to each creditor who has assented to the deed a statement in the prescribed form of the trustee's accounts and of the proceedings under the deed down to the date of the statement, and shall, in his affidavit verifying his accounts transmitted to the Board of Trade, state whether or not he has duly sent such statements, and the dates on which the statements were sent; and, if a trustee fails to comply with any of the provisions of this section, the High Court may, for the purpose of enforcing those provisions, exercise on the application of the Board of Trade all the powers conferred on the court by subsection (5) of section one hundred and five of the Bankruptcy Act, 1914, in cases of bankruptcy.

15. Audit of accounts.] (1) Where, in the course of the administration of the estate of a debtor who has executed a deed of arrangement, or within twelve months from the date when the final accounts of the estate were rendered to the Board of Trade, an application in writing is made to the Board by a majority in number and value of the creditors who have assented to the deed for an official audit of the trustee's accounts, the Board may cause the trustee's accounts to be audited, and in such case all the provisions of the Bankruptcy Act, 1914, relating to the institution and enforcement of an audit of the accounts of a trustee in bankruptcy (including the provisions as to fees) shall, with necessary modifications, apply to the audit of the trustee's accounts, and the Board shall have power on the audit to require production of a certificate for the taxed costs of any solicitor whose costs have been paid or charged by the trustee, and to disallow the whole or any part of any costs in respect of which no certificate is produced.

(2) The Board of Trade may determine how and by what parties the costs, charges and expenses of and incidental to the audit (including any prescribed fees chargeable in respect thereof) are to be borne, whether by the applicants or by the trustee or out of the estate, and may, before granting an application for an audit, require the applicants to give security for the costs of the audit.

16. Payment of undistributed moneys into court.] At any time after the expiration of two years from the date of the registration of a deed of arrangement, the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business at the date of the execution of the deed may, on the application of the trustee or a creditor, or on the application of the debtor, order that all moneys representing unclaimed dividends and undistributed funds then in the hands of the trustee or under his control be paid into court.

17. Preferential payment to creditor an offence.] If a trustee under a deed of arrangement pays to any creditor out of the debtor's property a sum larger in proportion to the creditor's claim than that paid to other creditors entitled to the benefit of the deed, then, unless the deed authorises him to do so, or unless such payments are either made to a creditor entitled to enforce his claim by distress or are such as would be lawful in a bankruptcy, he shall be guilty of a misdemeanour.

18. Power to bankruptcy courts to appoint new trustee.] The power to appoint a new trustee or new trustees under section twenty-five of the Trustee Act, 1893 [56 & 57 Vict. c. 53] may, in the case of a deed of arrangement, be exercised either by the High Court or by the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business at the date of the execution of the deed, and the provisions of that section shall apply accordingly.

19. Provisions for the protection of trustees under void deeds.] (1) Where a deed of arrangement is void by reason that the requisite majority of creditors have not assented thereto, or, in the case of a deed for the benefit of three or more creditors, by reason that the debtor was insolvent at the time of the execution of the deed and that the deed was not registered as required by this Act, but is not void for any other reason, and a receiving order is made against the debtor upon a petition presented after the lapse of three months from the execution of the deed, the trustee under the deed shall not be liable to account to the trustee in the bankruptcy for any dealings with or payments made out of the debtor's property which would have been proper if the deed had been valid, if he proves that at the time of such dealings or payments he did not know, and had no reason to suspect, that the deed was void.

(2) Where a receiving order is made against a debtor under subsection (5) of section one hundred and seven of the Bankruptcy Act, 1914, this section shall apply if the receiving order was made after the lapse of three months from the execution of the deed.

20. Notice to creditors of avoidance of deed.] When a deed of arrangement is void by virtue of this Act for any reason other than that, being for the benefit of creditors generally, it has not been registered within the time allowed for the purpose by this Act, the trustee shall, as soon as practicable after he has become aware that the deed is void, give notice in writing thereof to each creditor whose name and address he knows, and file a copy of the notice with the Registrar of Bills of Sale, and, if he fails to do so, he shall be liable on summary conviction to a fine not exceeding twenty pounds.

21. Payment of expenses incurred by trustees.] Where a deed of arrangement is avoided by reason of the bankruptcy of the debtor, any expenses properly incurred by the trustee under the deed in the performance of any of the duties imposed on him by this Act shall be allowed or paid him by the trustee in the bankruptcy as a first charge on the estate.

22. Application of Part IV.] The provisions of this part of this Act, except such of those provisions—

- (a) as relate to the transmission of accounts to the Board of Trade;
- (b) as provide for the protection of trustees under void deeds;
- (c) as require a notice to be given to creditors of avoidance of deeds;
- (d) as provide for the payment of expenses incurred by trustees;

shall not apply to a deed of arrangement made for the benefit of any three or more of the debtor's creditors unless it is in fact for the benefit of the debtor's creditors generally.

PART V.

GENERAL.

23. Courts in which applications for enforcement of trusts to be made.] Any application by the trustee under a deed of arrangement, which either is expressed to be or is in fact for the benefit of the debtor's creditors generally, or by the debtor or by any creditor entitled to the benefit of such a deed or arrangement, for the enforcement of the trusts or the determination of questions under it, shall be made to the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business at the date of the execution of the deed:

Provided that any question as to whether any person claiming to be a creditor entitled to the benefit of a deed of arrangement is so entitled may, subject to rules made under this Act, be decided either by the court having such jurisdiction as aforesaid or by the High Court.

24. Relation to bankruptcy law.] (1) If the trustee under a deed of arrangement, which either is expressed to be or is in fact for the benefit of the debtor's creditors generally, serves in the pre-

scribed manner on any creditor of the debtor notice in writing of the execution of the deed and of the filing of the statutory declaration certifying the creditors' assents with an intimation that the creditor will not after the expiration of one month from the service of the notice be entitled to present a bankruptcy petition against the debtor founded on the execution of the deed or on any other act committed by him in the course or for the purpose of the proceedings preliminary to the execution of the deed as an act of bankruptcy, that creditor shall not, after the expiration of that period, unless the deed becomes void, be entitled to present a bankruptcy petition against the debtor founded on the execution of the deed or any act so committed by him as an act of bankruptcy.

(2) Where such a deed of arrangement as aforesaid has become void by virtue of this Act or any enactment repealed by this Act, the fact that a creditor has assented to the deed shall not disentitle him to present a bankruptcy petition founded on the execution of the deed of arrangement as an act of bankruptcy.

(3) Save as otherwise expressly provided by this Act, nothing in this Act shall be construed as repealing or shall affect any provision of the law for the time being in force in relation to bankruptcy or shall give validity to any deed or instrument which by law is an act of bankruptcy or void or voidable.

25. Office copies.] Subject to the provisions of this Act, and to any rules made thereunder, any person shall be entitled to have an office copy of, or extract from, any deed registered under this Act, upon paying for it at the like rate as for office copies of judgments of the High Court, and any copy or extract purporting to be an office copy or extract shall, in all courts and before all arbitrators or other persons, be admitted as prima facie evidence thereof, and of the fact and date of registration as shown thereon.

26. Fees.] (1) There shall be taken, in respect of the registration of deeds of arrangement, and in respect of any office copies or extracts, or official searches made by the registrar, such fees as may be from time to time prescribed; and nothing in this Act contained shall make it obligatory on the registrar to do, or permit to be done, any act in respect of which any fee is specified or prescribed, except on payment of such fee.

(2) Section twenty-six of the Supreme Court of Judicature Act, 1875 [38 & 39 Vict. c. 77, s. 27], as amended by any subsequent enactment, shall apply to fees under this Act, and orders under that section may, if need be, be made in relation to such fees accordingly.

27. Returns to Board of Trade.] The general annual report which, by section one hundred and thirty-six of the Bankruptcy Act, 1914, the Board of Trade is required to cause to be prepared and laid before Parliament, shall include a report of proceedings under this Act, and, for the purposes of such report, the Registrar of Bills of Sale shall make to the Board of Trade such returns of the registration of deeds of arrangement, at such times, and in such manner and form, as may be prescribed.

28. Rules.] Rules for carrying this Act into effect may be made in like manner as rules may be made under and for the purposes of the Judicature Acts, 1873 to 1910.

29. Affidavits.] An affidavit required by or for the purposes of this Act may be sworn before a Master of the Supreme Court or before any person empowered to take affidavits in the Supreme Court or before any other person before whom such an affidavit may, by any law for the time being in force, be sworn, but this section shall not apply to an affidavit required for the purposes of this Act by virtue of rules made under the Bankruptcy Act, 1914.

30. Interpretation of terms.] (1) In this Act, unless the context otherwise requires,—

"Creditors generally" includes all creditors who may assent to, or take the benefit of, a deed of arrangement;

"Prescribed" means prescribed by rules made under this Act;
"Property" has the same meaning as in the Bankruptcy Act, 1914;
"Rules" includes forms.

(2) For the purpose of determining the number of creditors for whose benefit a deed is made, any two or more joint creditors shall be treated as a single creditor.

31. *Repeals and savings.* (1) The enactments mentioned in the Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule.

(2) This Act shall apply to proceedings commenced under any enactment repealed by this Act and pending at the commencement of this Act, as if commenced under this Act.

(3) Until revoked or altered under the powers of this Act, rules made under any enactment repealed by this Act, and in force at the commencement of this Act, shall continue in force, and shall have effect as if made under this Act.

(4) The provisions of this Act shall apply to and in respect of a deed of arrangement executed before the commencement of this Act only if and so far as the corresponding provisions of the enactments repealed by this Act would have applied to or in respect of such deed if this Act had not been passed.

32. *Short title, extent, and commencement.* (1) This Act may be cited as the Deeds of Arrangement Act, 1914.

(2) This Act shall not extend to Scotland or Ireland.

(3) This Act shall come into operation on the first day of January nineteen hundred and fifteen.

SCHEDULE.

[Section 31.]

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
50 & 51 Vict. c. 57.	The Deeds of Arrangement Act, 1887.	The whole Act, except so far as it relates to Ireland.
53 & 54 Vict. c. 71.	The Bankruptcy Act, 1890.	Section twenty-five.
3 & 4 Geo. 5, c. 34.	The Bankruptcy and Deeds of Arrangement Act, 1913.	Sections twenty-seven to forty-one; in section forty-two from "and Part II. of this Act" to "extend to Ireland"; and Schedule II. so far as unrepealed.

CHAPTER 48.

[FEUDAL CASUALTIES (SCOTLAND) ACT, 1914.]

An Act to provide for the redemption and extinction of Casualties incident to Feus in Scotland.

[10th August, 1914.]

CHAPTER 49.

[MILK AND DAIRIES ACT, 1914.]

An Act to make better provision with respect to the Sale of Milk and the Regulation of Dairies.

[10th August, 1914.]

Be it enacted, &c.:

1. *Prohibition of sale of tuberculous milk.* If a person—

(a) Sells, or offers or exposes for sale, or suffers to be sold or offered or exposed

for sale, for human consumption or for use in the manufacture of products for human consumption; or

(b) Uses or suffers to be used in the manufacture of products for human consumption;

the milk of any cow which has given tuberculous milk, or is suffering from emaciation due to tuberculous, or from tuberculous of the udder, or from any of the diseases specified in the First Schedule to this Act, if it is proved that he had previously received notice from an officer of a local authority, or that he otherwise knew, or by the exercise of ordinary care could have ascertained, that the cow had given tuberculous milk, or was suffering from any such disease.

2. *Extension of power to make orders respecting milk and dairies.* (1) The purposes for which general and special orders with respect to milk and dairies, hereinafter referred to as Milk and Dairies Orders, may be made by the Local Government Board under section thirty-four of the Contagious Diseases (Animals) Act, 1878 [41 & 42 Vict. c. 74], as amended by the Contagious Diseases (Animals) Act, 1886 [49 & 50 Vict. c. 32], shall include the following purposes:—

(a) The registration with local authorities of all dairies;

(b) the inspection by persons authorised by the local authority for the locality in which the dairy is situate of dairies and persons in or about dairies who have access to the milk or to the churns or other milk receptacles;

(c) the prevention of danger to health from the sale for human consumption, or from the use in the manufacture of products for human consumption, of infected, contaminated, or dirty milk;

(d) the prohibition of the addition of colouring matter and the prohibition or regulation of the addition of skimmed or separated milk, or water, or any other substance, to milk intended for sale for human consumption, or the abstraction therefrom of butter-fat or any other constituent, and the prohibition or regulation of the sale for human consumption of milk to which such an addition or from which such abstraction has been made, or which has been otherwise artificially treated;

(e) the regulation of the cooling, conveyance, and distribution of milk intended for sale for human consumption, or for use in the manufacture of products for human consumption;

(f) the labelling, marking, or identification and the sealing or closing of churns, vessels, and other receptacles of milk for sale for human consumption or used for the conveyance of such milk;

(g) authorising the use in connection with the sale of milk of the designation "certified milk," prescribing the conditions subject to which milk may be sold under such designation and prohibiting the use of such designation in connection with the sale of milk in respect of which the prescribed conditions are not complied with.

(2) A Milk and Dairies Order with respect to the inspection of cattle in a dairy may authorise the person making the inspection to require any cow to be milked in his presence and to take samples of the milk, and to require that the milk from any particular teat shall be kept separate and to take separate samples thereof.

(3) If any person is guilty of a contravention of, or non-compliance with, the provisions of any Milk and Dairies Order, he shall be guilty of an offence against this Act.

(4) Milk and Dairies Orders shall be made by the Local Government Board with the concurrence of the Board of Agriculture and Fisheries, and shall have effect as if enacted in this Act.

(5) All Milk and Dairies Orders shall be laid before each House of Parliament as soon as may

be after they are made; and if an Address is presented to His Majesty by either House of Parliament within the next subsequent forty days on which that House has sat next after the order is laid before it praying that the order may be annulled, it shall thereupon be void, but without prejudice to the validity of anything previously done thereunder, or to the making of a new order. If the session of Parliament ends before such forty days as aforesaid have expired, the order shall be laid before each House of Parliament at the commencement of the next session as if it had not previously been laid.

The Rules Publication Act, 1893 [56 & 57 Vict. c. 66], shall apply to any such order as if it was a statutory rule within the meaning of section one of that Act.

3. *Power to stop supply of milk likely to cause tuberculosis.* (1) If the medical officer of health of a county or county borough is of opinion that tuberculosis is caused, or is likely to be caused, by the consumption of the milk supplied from any dairy in which cows are kept within such county or county borough, the provisions of the Second Schedule to this Act shall have effect with respect to the reports to be made and the steps to be taken with a view to stopping the supply of milk from the dairy, and with a view to stopping such supply orders may be made in accordance with that Schedule, subject to such right of appeal and the payment of compensation in such cases as are provided therein.

(2) Where an order stopping the supply of milk is made under the said schedule a dairyman shall not be liable for an action for breach of contract if the breach is due to such order.

(3) If any dairyman whilst any order made in accordance with the said schedule prohibiting the supply or use of milk is in force supplies or uses any milk in contravention of this order he shall be guilty of an offence against this Act.

(4) The Local Government Board may by order direct that the council of any non-county borough within the county, which is a local authority for the purposes of the Diseases of Animals Acts, 1884 to 1911, shall exercise and perform within the borough the powers and duties of the county council under this and the next succeeding section, and where such an order has been made with respect to any non-county borough this and the next succeeding section shall apply as if the borough were a county borough.

4. *Obligation to inspect dairies in certain cases.* (1) If the medical officer of health of any local authority has reason to suspect that tuberculosis is caused, or is likely to be caused, by the consumption of any milk which is being sold or exposed or kept for sale within the area of the local authority, he shall endeavour to ascertain the source or sources of supply, and on ascertaining the facts shall forthwith give notice of them to the medical officer of health of the county or county borough in which the cows from which the milk is obtained are kept, whether the dairy where they are kept is within or without the area of the local authority, unless the local authority are themselves the council of that county or county borough.

(2) On the receipt of such notice it shall be the duty of the medical officer of health of the county or county borough to cause the cattle in the dairy to be inspected, and to make such other investigations as may be necessary.

(3) Sufficient notice of the time of the inspection shall be given to the local authority whose medical officer of health gave the notice, and to the dairyman, to allow that officer or a veterinary inspector or other veterinary surgeon appointed by the authority, and, if desired, another veterinary surgeon appointed by the dairyman, being present at the inspection if either party so desire.

(4) The council of the county or county borough on whose medical officer of health the notice is served shall send to the medical officer of health of the local authority who gave the notice copies of any reports which may have been made by the medical officer of health making the inspection, and of any veterinary or bacteriological or other reports which may have been furnished to him, and shall give him information as to whether any

the occupier of the dairy proves to the satisfaction of the court—

- (a) that he has used due diligence to enforce the execution of this Act and the Milk and Dairies Orders; and
- (b) that the said other person had committed the offence in question without his knowledge, consent or connivance;

that other person shall be summarily convicted of the offence, and the occupier shall be exempt from any fine, and the person so convicted shall, in the discretion of the court, be also liable to pay any costs incidental to the proceedings.

(4) When it is made to appear to the satisfaction of the authority by or on whose behalf proceedings are about to be taken—

- (a) that the actual occupier of the dairy has used all due diligence to enforce the execution of this Act and the Milk and Dairies Orders; and
- (b) by what person the offence has been committed; and
- (c) that it has been committed without the knowledge, consent or connivance of the occupier of the dairy and in contravention of his orders;

proceedings shall be taken against the person who is believed to be the actual offender without first proceeding against the occupier of the dairy.

(5) The duty of taking proceedings for enforcing the provisions of section one of this Act shall rest on the county council or county borough council, without prejudice however to the power of a sanitary authority in a county to take such proceedings, and the duty of taking proceedings for enforcing the provisions of any Milk and Dairies Order shall rest on the local authority prescribed in the order, and the clerk of the local authority, or other officer whom the local authority may appoint, shall have power, if so authorised by the local authority, to institute and carry on such proceedings:

Provided that in cases where the Local Government Board make an Order under section three of this Act directing that the council of a non-county borough shall exercise and perform within the borough the powers and duties of a county council under sections three and four of this Act, the duty of taking proceedings for enforcing the provisions of section one of this Act in such borough shall rest on the council thereof and not on the county council.

(6) Notwithstanding anything contained in any Act to the contrary, all fines imposed in any proceedings instituted by or on behalf of a local authority in the exercise of their powers and duties under this Act shall be paid to the authority and carried to the credit of the fund out of which the expenses incurred by the authority under this Act are defrayed.

16. *Interpretation.*] (1) In this Act and in the Contagious Diseases (Animals) Act, 1878, and the Contagious Diseases (Animals) Act, 1886, unless the context otherwise requires—

The expression "dairy" includes any farm, cowshed, milk store, milk shop, or other place from which milk is supplied on, or for, sale or in which milk is kept or used for purposes of sale or manufacture into butter, cheese, dried milk or condensed milk for sale, and, in the case of a purveyor of milk who does not occupy any premises for the sale of milk, includes the place where he keeps the vessels used by him for the sale of milk, but does not include a shop from which milk is not supplied otherwise than in the properly closed and unopened receptacles in which it was delivered to the shop, or a shop or other place in which milk is sold for consumption on the premises only;

The expression "milk" includes cream, skimmed milk, and separated milk;

The expression "dairyman" includes any occupier of a dairy, any cowkeeper, or any purveyor of milk;

The expression "purveyor of milk" includes a seller of milk, whether wholesale or by retail;

The expression "medical officer of health" includes any duly qualified medical practitioner authorised by the council to act on behalf of the medical officer of health;

The expression "veterinary inspector" means an inspector being a member of the Royal College of Veterinary Surgeons, or having such other veterinary qualifications as may be approved by the Board of Agriculture and Fisheries;

The expression "sanitary authority" as respects London means the sanitary authority for the purposes of the Public Health (London) Act, 1891, and elsewhere the council of a borough or of an urban or rural district, and the expression "sanitary district" means the district of such authority;

The expression "common council" means the mayor, aldermen, and commons of the City of London in common council assembled.

(2) Where milk is sold or exposed or kept for sale it shall be presumed to be sold or exposed or kept for sale for human consumption or for use in the manufacture of products for human consumption, unless the contrary is proved.

(3) Where milk is kept in any dairy, or in the custody or possession of any dairyman, it shall be presumed to be kept for purposes of sale, or manufacture for sale, unless the contrary is proved.

(4) The expression "local authority" in section nine of the Contagious Diseases (Animals) Act, 1886, and in this Act shall include sanitary authorities and county councils, but with respect to the provisions of any Milk and Dairies Order, the order may prescribe by what local authority or authorities the several provisions thereof are to be enforced and executed, and any such order may provide for the giving of assistance and information by county councils to sanitary authorities and by sanitary authorities to county councils for the purpose of their respective duties under this Act or under any Milk and Dairies Order.

(5) The Scilly Islands shall be deemed to be a county and the council of those Islands the council of a county, and any expenses incurred by that council under this Act or the Milk and Dairies Orders shall be treated as general expenses of the council.

17. *Application to London.*] (1) Section fifty-three of the Public Health Acts Amendment Act, 1907 [7 Edw. 7, c. 53] (which confers power to require dairymen to furnish lists of sources of supply), shall apply to London as if it were herein re-enacted with the substitution of references to sanitary authorities and districts of sanitary authorities for references to local authorities and the districts of local authorities, and any penalties imposed by the said section as so applied shall be recoverable summarily.

(2) Any provisions of the Public Health Act, 1875, applied by this Act shall, for the purposes for which they are so applied, extend to London, subject to necessary adaptations.

(3) Section thirty-four of the Contagious Diseases (Animals) Act, 1878, as amended by section nine of the Contagious Diseases (Animals) Act, 1886, and this Act shall, notwithstanding anything in the Public Health (London) Act, 1891, extend to London.

(4) A Milk and Dairies Order affecting London shall provide for the exercise and performance by sanitary authorities in London of all powers and duties under the order which would have been imposed or conferred on sanitary authorities if this Act had not been passed and the order had been made under section twenty-eight of the Public Health (London) Act, 1891, as amended by sections five and six of the London Government Act, 1899 [62 & 63 Vict. c. 14], except that the order may provide for the exercise and performance by the London County Council of powers and duties relating to the inspection of cattle in dairies.

(5) Nothing in this Act, or in any Milk and Dairies Order, shall affect the powers with respect to the registration of dairymen and purveyors of milk within their own area conferred on

sanitary authorities in London by section five of the London County Council (General Powers) Act, 1903 [8 Edw. 7, c. cvii.].

(6) The borrowing of moneys by any metropolitan borough council for the purposes of this Act shall be subject in all respects to the provisions of sections one hundred and eighty-three to one hundred and eighty-nine of the Metropolitan Management Act, 1855 [18 & 19 Vict. c. 120], as amended by any subsequent Act.

(7) Where the authority in default is a metropolitan borough council the provisions of section one hundred and one of the Public Health (London) Act, 1891, shall apply in all respects as if such default had been made under the said Act.

18. *Short title, commencement, extent, and repeal.*] (1) This Act may be cited as the Milk and Dairies Act, 1914, and shall come into operation on the first day of January nineteen hundred and fifteen, or such later date, not being later than the first day of October nineteen hundred and fifteen as the Local Government Board may by order appoint.

(2) This Act shall not extend to Scotland or Ireland.

(3) The enactments specified in the Fourth Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule, and there shall also be repealed, as from the expiration of one year after the commencement of this Act, so much of any local Act as deals with any of the matters dealt with by any of the provisions of this Act.

FIRST SCHEDULE.

[Section 1.]

DISEASES OF COWS IN ADDITION TO TUBERCULOSIS TO WHICH SECTION ONE APPLIES.

Acute mastitis.
Actinomycosis of the udder.
Anthrax.
Foot-and-mouth disease.
Suppuration of the udder.

Any other disease affecting cows which by a Milk and Dairies Order is declared to be a disease for the purposes of section one of this Act.

SECOND SCHEDULE.

[Sections 3, 15 (2).]

PROCEDURE FOR STOPPING SUPPLY OF MILK UNDER SECTION THREE.

(1) The medical officer of health of the county or county borough in which the cows from which the milk is obtained are kept shall report the matter to the council of such county or county borough (hereinafter referred to as the responsible authority).

(2) His report shall be accompanied by the veterinary or bacteriological reports which have been furnished to him.

(3) On the receipt of the report or a copy of the report from the medical officer of health, the responsible authority may serve on the dairyman notice to appear before them, or furnish an explanation in writing, within such time not less than forty-eight hours from the time of the service of the notice on him as may be specified in the notice, to show cause why such an order as is hereinafter mentioned should not be made.

(4) The notice shall be accompanied by a copy of the reports made in respect of the dairy.

(5) The responsible authority if, in their opinion, the dairyman has failed to show cause why an order should not be made, may make an order prohibiting him, either absolutely or unless such conditions as may be prescribed in the order are complied with, from supplying for human consumption, or using or supplying for use in the manufacture of products for human consumption, any milk from the dairy or from any particular cow or cows therein until the order has been withdrawn in accordance with the provisions of this Schedule.

(6) The order shall specify the grounds on which it is made.

(7) On the making of such an order, a copy of the order shall forthwith be served on the dairy-

man, and notice of the facts shall also be served on the Local Government Board and the Board of Agriculture and Fisheries.

(8) Where no order is made, the responsible authority shall allow the dairyman any reasonable expenses incurred by him in showing cause why the order should not be made.

(9) An order prohibiting the supply or use of milk made under this Schedule shall forthwith be withdrawn, and notice of withdrawal served on the dairyman as soon as may be after the responsible authority or their medical officer of health is satisfied that the milk supplied from the dairy is not likely to cause disease.

(10) The medical officer of health shall have power to withdraw an order if so authorised by the responsible authority.

(11) If a dairyman is aggrieved by the making or continuance of an order prohibiting the supply or use of milk, he may by complaint under the Summary Jurisdiction Acts appeal to a court of summary jurisdiction.

(12) A court of summary jurisdiction on such appeal may confirm, vary, or withdraw the order and may direct to and by whom the costs of the appeal are to be paid.

(13) Pending the determination of the appeal, an order shall remain in force unless previously withdrawn.

(14) If an order prohibiting the supply or use of milk is made against a dairyman he shall, unless the order has been made in consequence of his own default or neglect, be entitled to recover from the responsible authority full compensation for any damage or loss which he may have sustained by reason of the making of the order. The dairyman shall also be entitled to full compensation for any damage or loss which he may sustain in consequence of the responsible authority unreasonably neglecting or refusing to withdraw an order made against him.

(15) In the case of an appeal under this schedule being allowed, the court to which the appeal is made shall determine and state whether the order, the subject of appeal, was made in consequence of the default or neglect of the dairyman or the withdrawal has been unreasonably neglected or refused.

(16) Any dispute as to the fact of damage or loss or as to the amount of compensation shall be settled by arbitration in the same manner as provided by the Public Health Act, 1875, and any sum awarded as compensation shall be recoverable as a civil debt.

(17) If the compensation claimed does not exceed twenty pounds it may at the option of either party, instead of being settled as hereinbefore provided, be settled by, and recoverable before, a court of summary jurisdiction.

THIRD SCHEDULE.

[Section 6.]

AMENDMENT OF SALE OF FOOD AND DRUGS ACTS.

(1) Where, under the Sale of Food and Drugs Acts, 1875 to 1907, a sample of milk is procured from a purveyor of milk, he shall, on being required to do so by the person by whom or on whose behalf the sample was taken, state the name and address of the seller or consignor from whom he received the milk.

(2) The local authority in whose district the sample was taken may take or cause to be taken one or more samples of milk in course of transit or delivery from such seller or consignor.

Within sixty hours after the sample of milk was procured from the purveyor he may serve on the local authority a notice stating the name and address of the seller from whom he received the milk and the time and place of delivery to the purveyor by the seller or consignor of milk from a corresponding milking, and requesting them to take immediate steps to procure, as soon as practicable, a sample of milk in the course of transit or delivery from the seller or consignor to the purveyor, unless a sample has been so taken since the sample was procured from the purveyor, or within twenty-four hours prior to the sample being procured from the purveyor, and

where a purveyor has not served such notice as aforesaid, he shall not be entitled to plead a warranty as a defence in any such proceedings:

Provided that the purveyor shall not have any such right to require that such a sample shall be taken in cases where the milk, from which the sample procured from the purveyor was taken, was a mixture of milk obtained by the purveyor from more than one seller or consignor.

If a purveyor has served on the local authority such a notice as aforesaid, and the local authority have not procured a sample of milk from the seller or consignor in accordance with the foregoing provisions, no proceedings under the Sale of Food and Drugs Acts, 1875 to 1907, shall be taken against the purveyor in respect of the sample of milk procured from him.

(3) Any sample of milk so taken in the course of transit or delivery shall be submitted for analysis to the analyst to whom the sample procured from the purveyor is or was submitted.

(4) If proceedings are taken against the purveyor of milk, a copy of the certificate of the result of the analysis of every sample so taken in the course of transit or delivery shall be furnished to the purveyor, and every such certificate shall, subject to the provisions of section twenty-one of the Sale of Food and Drugs Act, 1875, be sufficient evidence of the facts stated therein, and shall be admissible as evidence on any question whether the milk sold by the purveyor was sold in the same state as he purchased it.

(5) The local authority of the district in which the first-mentioned sample was taken may, instead of, or in addition to, taking proceedings against the purveyor of milk, take proceedings against the seller or consignor.

(6) If a sample of milk of cows in any dairy is taken in course of transit or delivery from that dairy, the owner of the cows may, within sixty hours after the sample of milk was procured, serve on the local authority a notice requesting them to take immediate steps to procure as soon as practicable a sample of milk from a corresponding milking of the cows, and the foregoing provisions shall apply accordingly:

Provided that the person taking the sample shall be empowered to take any such steps at the dairy as may be necessary to satisfy him that the sample is a fair sample of the milk of the cows when properly and fully milked.

FOURTH SCHEDULE.

[Section 18 (3).]

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
49 & 50 Vict. c. 32.	The Contagious Diseases (Animals) Act, 1886.	In section nine, subsections (3) (5) and (6) so far as they relate to England.
54 & 55 Vict. c. 76.	The Public Health (London) Act, 1891.	Section twenty-eight.
62 & 63 Vict. c. 14.	The London Government Act, 1899.	In Part I. of the Second Schedule, the last paragraph in both columns.

CHAPTER 50.

[MERCHANT SHIPPING (CONVENTION) ACT, 1914.]

An Act to make such amendments of the Law relating to Merchant Shipping as are necessary or expedient to give effect to an International Convention for the Safety of Life at Sea, signed in London on January the twentieth, nineteen hundred and fourteen, and for purposes incidental thereto.

[10th August, 1914.]

CHAPTER 51.

[UNREASONABLE WITHHOLDING OF FOOD SUPPLIES ACT, 1914.]

An Act to enable the Board of Trade during the present War to take possession of Food-stuffs unreasonably withheld.

[10th August, 1914.]

[Printed, 58 SOLICITORS' JOURNAL, p. 771.]

CHAPTER 52.

[HOUSING (No. 2) ACT, 1914.]

An Act to give the Board of Agriculture and Fisheries in Agricultural districts and the Local Government Board elsewhere powers with respect to Housing and to make similar provision for Scotland.

[10th August, 1914.]

Be it enacted, &c.:

1. *Powers as to acquisition of land and buildings for housing purposes.* (1) The Board of Agriculture and Fisheries in agricultural districts and the Local Government Board elsewhere shall have power during the period of one year from the passing of this Act to acquire, with the consent of the Treasury and with the concurrence of the Development Commissioners, land and buildings for housing purposes, and, with the consent of the Treasury, shall have power to dispose of any land or buildings so acquired.

(2) The Board of Agriculture and Fisheries and the Local Government Board respectively shall have power to do all other things which may appear to them necessary or desirable for housing purposes in connection with any land or buildings so acquired, and to make any arrangements for housing purposes with any local authority or authorised society within the meaning of this Act:

Provided that neither the Board of Agriculture and Fisheries nor the Local Government Board shall, in the exercise of their powers under this Act, in any case themselves build any dwelling unless they are satisfied after holding a public local inquiry that in that case there is an insufficiency of dwelling accommodation for the working classes, or that the existing accommodation is unsuitable and that dwelling accommodation cannot be otherwise satisfactorily provided.

2. *Payment of expenses incurred under the Act.* (1) The Treasury shall, as and when they think fit, issue out of the Consolidated Fund or the growing produce thereof such sums as may be required for the purpose of meeting any expenditure which is, in the opinion of the Treasury, of a capital nature, and which is incurred with the consent or approval of the Treasury, not exceeding in the aggregate four million pounds, and any expenses incurred for those purposes by the Board of Agriculture and Fisheries or the Local Government Board, not being, in the opinion of the Treasury, of the nature of capital expenditure, shall be defrayed out of moneys provided by Parliament, and any receipts arising in connection therewith shall be paid into the Exchequer.

(2) The Treasury may, if they think fit, for the purpose of providing money for sums so authorised to be issued out of the Consolidated Fund, or for repaying to that fund any part of the sums so issued, borrow by means of terminable annuities for a term not exceeding thirty years; and all sums so borrowed shall be paid into the Exchequer.

(3) The said annuities shall be paid out of moneys provided by Parliament, and if those moneys are insufficient, shall be charged on and paid out of the Consolidated Fund of the United Kingdom or the growing produce thereof.

(4) The Treasury may also, if they think fit, for the same purpose, borrow money by means of the issue of Exchequer Bonds; and the Capital Expenditure (Money) Act, 1904 [4 Edw. 7, c. 21], shall have effect as if this Act had been in force at the time of the passing of that Act.

(5) The Treasury shall, within six months after the end of every financial year, cause to be made out and laid before the House of Commons accounts showing the amount of any expenditure of a capital nature incurred by the Board of Agri-

culture and Fisheries and the Local Government Board respectively, under this Act, and of the money borrowed and the securities created under this Act; and any such accounts of expenditure shall be audited and reported upon by the Comptroller and Auditor-General as appropriation accounts in manner provided by the Exchequer and Audit Departments Act, 1866 (29 & 30 Vict. c. 39).

3. Interpretation, application, and short title.]
(1) In this Act, unless the context otherwise requires,—

The expression "housing purposes" means the provision, maintenance, improvement, and management of dwellings and gardens and other works or buildings for or for the convenience of persons belonging to the working classes; and

The expression "local authority" means the local authority for the purposes of Part III. of the Housing of the Working Classes Act, 1890 (53 & 54 Vict. c. 70); and

The expression "authorised society" means any society, company, or body of persons approved by the Treasury, whose objects include the erection, improvement, or management of dwellings for working classes, which does not trade for profit, or whose constitution forbids the payment of any interest or dividend at a rate exceeding five per cent. per annum.

(2) In the application of this Act to Scotland the Local Government Board for Scotland shall be substituted for the Local Government Board, and the Board of Agriculture for Scotland shall be substituted for the Board of Agriculture and Fisheries.

(3) This Act shall not apply to Ireland.

(4) This Act may be cited as the Housing (No. 2) Act, 1914.

CHAPTER 53.

[SPECIAL CONSTABLES (SCOTLAND) ACT, 1914.]

An Act to amend and extend the law relating to the Appointment of Special Constables in Scotland.

[10th August, 1914.]

CHAPTER 54.

[CONSTABULARY AND POLICE (IRELAND) ACT, 1914.]

An Act to amend the Law relating to the Pay and Pensions of the Royal Irish Constabulary and Dublin Metropolitan Police and for other purposes in relation to those Forces.

[10th August, 1914.]

CHAPTER 55.

[RIVER NAVIGATION IMPROVEMENT (IRELAND) ACT, 1914.]

An Act to provide for the Improvement of the Navigation of Rivers in Ireland.

[10th August, 1914.]

CHAPTER 56.

[CHARITABLE TRUSTS ACT, 1914.]

An Act to authorise the extension of the Area for the benefit of which Charities in a Town may be applied, and the variation of the purposes for which dose Charities may be applied in certain cases.

[10th August, 1914.]

Be it enacted, &c. :

1. Power to extend the area and objects of town charities in certain cases.] (1) The High Court may, by scheme made under their jurisdiction with respect to charities, and the Charity Commissioners may, by scheme made under the Charitable Trusts Acts, 1853 to 1894, provide that the benefits of a charity which are restricted to any municipal borough or to any parish or defined area within a municipal borough, may be extended, subject to such provisions as may be

made by the scheme, to any area within or comprising the borough as constituted for the time being or any adjacent parishes; and also, where any charity the benefits of which are extended by the scheme is applicable in doles, that the charity shall be applicable for the relief of distress or sickness, or for improving by such means as may be provided in the scheme the physical, social, or moral condition of the poor in the area as extended.

(2) A scheme under this Act shall only be made on the application of the trustees or persons acting in the administration of the charity or a majority of those persons, or, in the case of an application to the Court, on the application either of those trustees or persons or of the Attorney-General.

Section seventeen of the Charitable Trusts Act, 1853 (16 & 17 Vict. c. 137), shall apply to an application made to the Court for a scheme under this Act by any person other than the Attorney-General, and notice of any such application shall also be given to the Attorney-General.

(3) Nothing in this section shall authorise any scheme to be made—

(a) with respect to a charity the endowments of which are applicable solely for educational purposes; or

(b) with respect to any charity until the expiration of forty years from the date of the foundation thereof, and, in the case of a charity founded before the passing of this Act, by a donor or several donors any one of whom is living at the passing of this Act, until the death of the surviving donor or donors unless with the consent of such donor or donors.

2. Application to London.] This Act shall apply to the county of London as if it were a municipal borough, but shall not apply within the city of London.

3. Short title.] This Act may be cited as the Charitable Trusts Act, 1914, and shall be construed as one with the Charitable Trusts Acts, 1853 to 1894, and together with those Acts may be cited as the Charitable Trusts, Acts, 1853 to 1914.

CHAPTER 57.

[NATIONAL INSURANCE (PART II. AMENDMENT) ACT, 1914.]

An Act to amend Part II. of the National Insurance Act, 1911.

[10th August, 1914.]

Be it enacted, &c. :

1. Amendment of statutory conditions with respect to previous employment.] (1) The following condition shall be substituted for the first of the statutory conditions set out in section eighty-six of the National Insurance Act 1911 (hereinafter referred to as the principal Act), namely—

"(1) that he proves that not less than ten contributions have been paid by him under this Part of this Act";

Provided that the substitution shall not take effect as respects any claim made before the passing of this Act.

(2) The proviso to the first paragraph in the Eighth Schedule to the principal Act shall have effect as if after the words "reaches the age of eighteen" there were inserted the words "or as regards the fulfilment of the first statutory condition for the receipt of unemployment benefit."

2. Provisions as to courts of referees.] (1) Provision may be made by regulations under Part II. of the principal Act for allowing any claim or question which is reported or referred to a court of referees to be proceeded with in the absence of any member or members of that court other than the chairman, but only if the claimant or the person or association in whose case the question arises consents, and in such case the court shall, notwithstanding anything in the principal Act, be deemed to be properly constituted, and the chairman shall, if the number of members of the court is an even number, have a second or casting vote.

(2) The time within which notice requiring an

insurance officer to report a matter to a court of referees for their consideration may be given shall be twenty-one days from the time when the decision of the insurance officer is communicated to the person affected thereby, or such extended time as the Board of Trade may in any particular case for special reasons allow.

(3) Where upon a recommendation by a court of referees unemployment benefit is in accordance with paragraph (e) of subsection (1) of section ninety-one of the principal Act, and the regulations made thereunder, paid during any period intervening between the claim for the benefit and the final determination of the claim, the benefit shall, except where such regulations otherwise prescribe, and notwithstanding that the final determination is adverse to the claim, be treated as having been duly paid, and shall not be recoverable from the workman under subsection (5) of section one hundred and one of the principal Act or otherwise.

(4) Proviso (b) to subsection (1) of section eighty-eight of the principal Act, which relates to the power of an insurance officer to refer claims and questions to courts of referees, shall have effect as if for the words "who shall in each case determine the question, and the decision of the court of referees shall be final and conclusive," there were substituted the words "and thereupon the provisions of the last foregoing proviso shall apply as if he had reported the matter to the court."

3. Determination of questions by umpire.] (1) Where any question arises under Part II. of the principal Act whether a person is a workman within the meaning of that Part, the question shall be decided in the like manner as a question whether a workman is a workman in respect of whom contributions are payable under that Part, or whether a trade in which a workman is employed is an insured trade, and the provisions of Part II. of the principal Act relating to the determination of such questions and the consequences of decisions thereon, and requiring any such questions to be referred to the umpire, shall apply accordingly.

(2) Where in pursuance of regulations made by the Board of Trade under Part II. of the principal Act, a decision has been obtained from the umpire that contributions under that Part are not payable in respect of any workman, or class of workmen, and the umpire certifies that he has subsequently revised such decision so as to make contributions payable in respect of such workman, or class of workmen, or any of them, contributions shall be so payable only from the date when the decision was so revised.

(3) Subsections (3) and (4) of section eighty-eight of the principal Act shall apply to all proceedings before the umpire whether under that section or under any other provision of Part II. of the principal Act.

4. Calculation of Treasury contribution to unemployment fund.] (1) For the purpose of calculating the amount of the contribution to the unemployment fund to be made in any year out of moneys provided by Parliament under subsection (6) of section eighty-five of the principal Act, so long as regulations under the principal Act provide for the payment of contributions by means of stamps the sums received in that year on account of such stamps, after deducting any sums which may have been refunded on account of any such stamps, or under subsection (2) of section ninety-nine, or subsection (2) of section one hundred of the principal Act, or section five of this Act, shall be deemed to be, and as from the commencement of the principal Act be deemed to have been, contributions received from employers and workmen in that year.

(2) The like deductions shall be made from the receipts paid into the unemployment fund on income account for the purpose of calculating the amount which may be applied as an appropriation in aid under subsection (2) of section eighty-nine of the principal Act.

5. Amendment of s. 93 of principal Act as to refunds to employers.] (1) As from the fourteenth day of July nineteen hundred and fourteen the

following section shall be substituted for section ninety-four of the principal Act:—

- "(1) The Board of Trade shall, on the application of any employer made in the prescribed manner within two months after the termination of an insurance year, or after such longer period as the Board of Trade may prescribe, refund to such employer as soon as practicable out of the unemployment fund the sum of three shillings in respect of each workman in respect of whom he has paid not less than forty-five contributions during the insurance year:
- (2) For the purpose of meeting any change in the insurance year, or for the purpose of making provision for any period which may elapse between the date upon which contributions commence to be payable under this Part of this Act and the commencement of the next ensuing insurance year, the Board of Trade may, so far as necessary for the purpose, apply the provisions of this section to any period less than an insurance year, subject to such proportionate reduction of the number of contributions required and of the sum to be refunded as they may direct, and this section shall take effect as regards any such period of less than an insurance year as so applied."
- (2) In calculating the number of contributions paid by an employer in respect of a workman for the purpose of this section:—
- (a) Any contributions which may have been refunded to the employer in respect of the workman under section ninety-six of the principal Act as originally enacted, or from which he may have been exempted under the provisions of this Act substituted for that section, shall be deemed to have been paid;
- (b) Any contributions paid by the Crown in accordance with section ninety-eight of the principal Act in respect of a workman in training shall be deemed to have been paid by the employer by whom the workman was employed immediately before the training;
- (c) Where the employer has made an arrangement with the Board of Trade under section ninety-nine of the principal Act he shall, in respect of any contributions paid under the arrangement, be deemed to have paid that number of contributions which he would have been liable to pay if he had not made such an arrangement:
- Provided that when the number of contributions paid by the employer would but for this subsection have been less than forty-five, the amount refunded under this section in respect of the workman shall be subject to such proportionate reduction as the Board may direct.
- 6. Amendment of s. 95 of principal Act.]** (1) At the end of subsection (1) of section ninety-five of the principal Act the following proviso shall be added:—
- "Provided that if at the time when contributions first became payable in respect of any workman under this Part of this Act he was over the age of fifty-five, the number of weeks in respect of which contributions are required to be paid by him in order to entitle him or his representative to such repayments as aforesaid shall be reduced by fifty weeks for every year or part of a year by which his age at that time exceeded fifty-five."
- (2) At the end of the same section, the following subsection shall be added:—
- "(3) Where a workman has received a repayment under this section, and has paid further contributions under this Part of this Act, he shall be entitled to a further repayment in accordance with the section if the number of such further contributions exceeds one hundred, and

in the case of his death his representatives shall be entitled to such further repayments whatever may be the number of such further contributions."

7. Exemption from contributions in respect of workmen working short time.] As from the first day of January nineteen hundred and fifteen the following section shall be substituted for section ninety-six of the principal Act:—

- "(1) Where it appears to the Board of Trade that there is exceptional unemployment in any trade or branch of a trade, the Board may, on application being made in the prescribed manner by any employer in that trade or branch, and on the prescribed conditions being complied with, make an order exempting workmen of any specified class or description employed by him who are systematically working short time, and the employer, from contributions under Part II. of the principal Act, and whilst the order remains in force, and the workmen of the class or description specified in the order systematically work short time in accordance with the order, those workmen and the employer shall be exempt from contributions as if the workmen were not workmen employed in an insured trade.
- (2) That the Board of Trade may make regulations for giving effect to this section, and in particular for defining 'short time' for the purposes of this section; for fixing the maximum period for which an exemption under this section may continue; for requiring an employer to deposit at a labour exchange the unemployment books of the workmen in respect of whom an exemption is claimed, and to pay the prescribed number of contributions, not exceeding two, in respect of every such workman; for cancelling an order under this section if it appears that the conditions of the order are not being complied with, without prejudice however to any liability which the employer may have incurred by reason of non-payment of any contributions whilst such conditions were not complied with."

8. Amendment of s. 101 (2) of principal Act.]

(1) Where an employer has been convicted under subsection (2) of section one hundred and one of the principal Act of the offence of failing or neglecting to make any contribution under Part II. of that Act, then, if notice of the intention to do so is served with the summons or warrant, evidence may be given of the failure or neglect on the part of the employer to pay other contributions in respect of the same workman during the year preceding the date when the information was laid, and on proof of such neglect or failure the employer shall be liable to pay to the unemployment fund a sum equal to the total amount of all the contributions which he is so proved to have failed or neglected to pay, which sum when paid shall be treated as a payment in satisfaction of such contributions, and the workman's portion of such contributions shall not be recoverable by the employer from the workman.

(2) A court of summary jurisdiction in Ireland shall have the same power as a court of summary jurisdiction in England in the case of a person convicted for an offence under subsection (1) of section one hundred and one of the principal Act to impose a fine not exceeding twenty-five pounds instead of imprisonment, if they think that the justice of the case will be better met by a fine than imprisonment.

(3) All proceedings for any contravention or non-compliance with the provisions of Part II. so far as relating to matters under Part II. of the principal Act, or this Act, or the regulations made thereunder, shall in Scotland be instituted and carried on under the provisions of the Summary Jurisdiction (Scotland) Acts, and may be taken at the instance of the procurator fiscal or the Board of Trade.

9. Recovery of contributions from workmen.] An employer shall not be entitled to recover from a workman the amount of any contributions paid by him on behalf of a workman otherwise than by deductions made from the workman's wages, or from any other payment due from him to the workman, nor shall he be allowed to make any such deduction except from wages or other payment in respect of the period, or part of the period, of employment for which the contribution was payable, or in respect of a period of employment ending not later than four weeks after the termination of the period for which the contribution was payable.

10. Explanation of s. 103 of principal Act.] For removing doubts it is hereby declared that in section one hundred and three of the principal Act the expression "workmen in any trade other than an insured trade" includes, and shall be deemed always to have included, any workmen employed otherwise than in an insured trade, and the expression "trade mentioned in the order" shall be construed accordingly.

11. Amendment of s. 103 of principal Act.] At the end of section one hundred and three of the principal Act the following proviso shall be inserted:—

"Provided also that no such order shall contain any variations from the draft order with regard to which an inquiry is held other than such as are approved in writing by the person who held the inquiry."

12. Amendment of s. 104 of principal Act.] Where the Board of Trade, whether before or after the passing of this Act, have made an order under section one hundred and four of the principal Act excluding any occupation from the occupations which are deemed to be occupations in an insured trade any workman shall, on making an application to the Board of Trade for the purpose within six months after the making of the order or the passing of this Act, whichever may be the later, and on satisfying the Board of Trade—

- (a) that the number of contributions paid in respect of him are less than ten; and
- (b) that by reason of the order he has ceased to be employed in an insured trade;

be entitled to have repaid to him out of the unemployment fund the amount of the contributions paid by him whilst employed in the occupation so excluded, after deducting the amount of the unemployment benefit, if any, which he may have received; but if at any time after such repayment he becomes entitled to unemployment benefit he shall be treated as if no contributions had been paid in respect of him whilst employed in such occupation.

13. Amendment of s. 105 of principal Act in respect of arrangements with associations of workmen.] (1) The Board of Trade shall not make or continue an arrangement with an association under section one hundred and five of the principal Act, unless they are of opinion that the payments authorised by the rules of the association to be made to its members when unemployed (inclusive of any payments in respect of which a refund may be made to the association under the said section) represent a provision for unemployment, as respects such of its members as are workmen in an insured trade, which is at least one-third greater than the provision represented by unemployment benefit under the principal Act.

This limitation shall, as regards any payments made by an association to its members in respect of unemployment occurring on or after the twenty-eighth day of September nineteen hundred and fourteen, or such later date as may be fixed by the Board of Trade in any particular case after consultation with the association concerned, be substituted for the limitation imposed by that subsection on the amount to be repaid periodically to an association by reference to three-fourths of the amount of the payments made.

(2) The amount of any sum which, but for section one hundred and five of the principal Act, would have been paid to a workman by way of

unemployment benefit shall, for all purposes of Part II. of that Act, be deemed to have been paid, and accordingly subsection (3) of that section shall have effect as if the words "determining whether a workman has exhausted his right to unemployment benefit under" were omitted therefrom and the words "a workman" were substituted for the word "him."

(3) Regulations may be made under subsection (4) of section one hundred and five of the principal Act for referring questions which may arise under that section to insurance officers and courts of referees as well as to the umpire.

14. Amendment of s. 106 of principal Act.]—

(1) The provisions of section one hundred and six of the principal Act respecting the sums to be excluded in calculating the amounts in respect of which repayments may be made to an association under that section shall be amended as follows:—

(a) The words "and exclusive in the case of payments which exceed twelve shillings a week, of so much of those payments as exceeds that sum" shall be repealed;

(b) Where it appears to the Board of Trade that the rules of any association are such as to enable persons when unemployed to obtain from the association, or from the association and the unemployment fund together, payments at rates which exceed seventeen shillings a week, the sums which might otherwise be repaid by the Board to the association under the said section shall be subject to such reduction (if any) as the Board may think just:

Provided that, if regulations or rules are made varying the rate of unemployment benefit laid down in the Seventh Schedule to the principal Act, the regulations or rules may make such corresponding variation in the limit of seventeen shillings fixed by this provision as the Board of Trade may think proper:

(c) Where the association is an association with which the Board of Trade have made an arrangement under section one hundred and five of the principal Act, and the highest rate of weekly payment authorised by the rules of the association to be made to its members, being workmen in an insured trade, when unemployed (inclusive of any payment in respect of which a refund may be made to the association under the said section) is less than thirteen shillings the whole amount of the sum repaid under that section shall not be excluded, but such part thereof only as bears the same proportion to the whole amount as such highest rate of weekly payment bears to thirteen shillings.

(2) This section shall have effect as regards payments made by an association in respect of unemployment occurring on or after the twenty-eighth day of September nineteen hundred and fourteen, or such later date as may be fixed by the Board of Trade in any particular case after consultation with the association concerned.

15. Amendment of s. 107 of principal Act.]—

(1) The definition of "workman" in section one hundred and seven of the principal Act shall include any person employed under a local or other public authority who would have been a workman within the meaning of that section if the contract with the authority had been a contract of service.

(2) In section one hundred and seven of the principal Act, at the end of the paragraph defining the conditions under which a workman is not to be deemed to be unemployed, the following words shall be inserted:—"unless such other occupation has ordinarily been followed by the workman in addition to his employment in an insured trade and outside the ordinary working hours of such trade, and the rate of remuneration received therefrom does not exceed one pound a week."

16. Power of President, &c., to act for Board of Trade.] Anything required or authorised under Part II. of the principal Act to be done by, to or before the Board of Trade may be done by, to or before the President or a Secretary or Assistant Secretary of the Board or any person authorized in that behalf by the President of the Board.

17. Amendment of Seventh Schedule of principal Act.]—(1) So much of the Seventh Schedule of the principal Act as prohibits workmen from receiving within any period of twelve months unemployment benefit for more than fifteen or such other number of weeks as may be prescribed shall have effect as if for the reference to any period of twelve months there were substituted a reference to an insurance year.

(2) A workman in respect of whom no contributions have been paid before the passing of this Act shall not be entitled under proviso (a) to the fourth paragraph in the Seventh Schedule of the principal Act to any addition to the number of contributions which he has actually paid.

18. Short title and construction.]—(1) This Act may be cited as the National Insurance (Part II. Amendment) Act, 1914, and shall be construed as one with Part II. of the principal Act; and the National Insurance Acts, 1911 and 1913, and this Act may be cited together as the National Insurance Acts, 1911 to 1914.

(2) For the purposes of this Act the expression "insurance year" means such period of not less than fifty-two nor more than fifty-three weeks as may be prescribed.

CHAPTER 58.

[CRIMINAL JUSTICE ADMINISTRATION ACT, 1914.]

An Act to diminish the number of cases committed to prison, to amend the Law with respect to the treatment and punishment of young offenders, and otherwise to improve the Administration of Criminal Justice.

[10th August, 1914.]

Be it enacted, &c.:

Fines, Fees, &c.

1. Obligation to allow time for payment of fines.] (1) A warrant committing a person to prison in respect of non-payment of a sum adjudged to be paid by a conviction of a court of summary jurisdiction shall not be issued forthwith unless the court which passed the sentence is satisfied that he is possessed of sufficient means to enable him to pay the sum forthwith, or unless, upon being asked by the court whether he desires that time should be allowed for payment, he does not express any such desire, or fails to satisfy the court that he has a fixed abode within its jurisdiction, or unless the court for any other special reason expressly directs that no time shall be allowed.

(2) Where any such person desires to be allowed time for payment the court in deciding what time shall be allowed shall consider any representation made by him, but the time allowed shall not be less than seven clear days:

Provided that if before the expiration of the time allowed the person convicted surrenders himself to any court of summary jurisdiction having jurisdiction to issue a warrant of commitment in respect of the non-payment of such sum as aforesaid, and states that he prefers immediate committal to awaiting the expiration of the time allowed, that court may if it thinks fit forthwith issue a warrant committing him to prison.

(3) Where a person so allowed time for payment as aforesaid appears to the court to be not less than sixteen nor more than twenty-one years of age, the court may, if it thinks fit, and subject to any rules made under this Act, order that he be placed under the supervision of such person as may be appointed by the court until the sum adjudged to be paid is paid, and in such case before issuing a warrant committing the offender to prison in respect of non-payment of the sum a court of summary jurisdiction shall consider any report as to the conduct and means of the

offender, which may be made by the person under whose supervision the offender has been placed.

(4) In all cases where time is not allowed for payment, the reasons of the court for the immediate committal shall be stated in the warrant of commitment.

2. Allowance of further time.] Where time has been allowed for the payment of a sum adjudged to be paid by a conviction or order of a court of summary jurisdiction, further time may, subject to any rules made under this Act, on an application by or on behalf of the offender, be allowed by a court of summary jurisdiction having jurisdiction to issue a warrant of commitment in respect of the non-payment of such sum as aforesaid, or such court may, subject as aforesaid, direct payment by instalments of the sum so adjudged to be paid.

3. Reduction of imprisonment on part payment of sums adjudged to be paid.] (1) Where a term of imprisonment is imposed by a court of summary jurisdiction in respect of the non-payment of any sum of money adjudged to be paid by a conviction or order of that or any other court of summary jurisdiction, that term shall, on payment of a part of such sum to any person authorised to receive it, be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days in the term as the sum paid bears to the sum adjudged to be paid:

Provided that, in reckoning the number of days by which any term of imprisonment would be reduced under this section, the first day of imprisonment shall not be taken into account, and that, in reckoning the sum which will secure the reduction of a term of imprisonment, fractions of a penny shall be omitted.

(2) Provision may be made by rules under section twenty-nine of the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), as to the application of sums paid under this section and for determining the persons authorised to receive such payments and the conditions under which such payments may be made.

4. Provisions for enforcement of payment of fines, &c.] (1) Where a person has been adjudged to pay a sum by a conviction of a court of summary jurisdiction, or in proceedings in any such court for enforcing an order in any matter of bastardy, or an order under which weekly sums are made payable towards the maintenance of a wife, the court may order him to be searched, and any money found on him on apprehension, or when so searched, or which may be found on him when taken to prison in default of payment of the sum so adjudged to be paid, may, unless the court otherwise directs, be applied towards the payment of the sum so adjudged to be paid, and the surplus, if any, shall be returned to him:

Provided that the money shall not be so applied if the court is satisfied that the money does not belong to the person on whom it was found, or that the loss of the money will be more injurious to his family than his imprisonment.

(2) Where a warrant of distress is issued by a court of summary jurisdiction it shall authorise the person charged with the execution thereof to take any money as well as any goods of the person against whom the distress is levied, and any money so taken shall be treated as if it were the proceeds of sale of goods taken under the warrant, and the provisions of the Summary Jurisdiction Acts shall apply accordingly.

5. Payment and allocation of fines and fees.]

(1) A court of summary jurisdiction in fixing the amount of any fine to be imposed on an offender shall take into consideration amongst other things, the means of the offender so far as they appear or are known to the court; and where a fine is imposed the payment of the court fees and police fees payable in the case up to and including conviction shall not be taken into consideration in fixing the amount of the fine or be imposed in addition to the fine, but the amount of the fine, or of such part thereof as may be paid or recovered, shall be applied as follows:—

(a) in the first place in the repayment to the informant or complainant of any court or police fees paid by him;

- (b) in the second place in the payment of any court fees not already paid by the informant or complainant which may be payable under the table of fees set out in the First Schedule to this Act;
- (c) in the third place in the payment of any police fees not already paid by the informant or complainant; and
- (d) the balance (if any) remaining after the aforesaid payments have been made shall be paid to the fund or person to which the fine is directed to be paid by the enactments relating to the offence in respect of which the fine was imposed, or, if there is no such fund or person, then to the fund into which the court fees are paid.

(2) In this section the expression "police fees" means all duly authorised fees payable to any constable in the execution of his duty.

6. Uniform scale of court fees as respects all courts of summary jurisdiction.] (1) The table of court fees set out in Part I. of the First Schedule to this Act shall have effect in all courts of summary jurisdiction, and shall be substituted for any table of fees in force at the commencement of this Act in any court of summary jurisdiction, and references in any enactment to any fees for which fees in the said table are so substituted shall be construed as references to the fees so substituted.

(2) Notwithstanding any provisions in any other general or local Act or in any rules made under any such Act enabling fees to be charged by clerks to justices, the fees set out in Part I. of that schedule, and no other fees, may be charged by clerks to justices:

Provided that nothing in this section shall affect the fees chargeable in metropolitan police courts or the police courts of the City of London, or in respect of the matters specified in Part II. of that schedule.

(3) The Secretary of State may, in the event of new or additional duties being imposed on courts of summary jurisdiction or clerks to justices, or for other sufficient reason, by order make such variations in the said table of fees as may seem to him to be proper, and upon such order coming into operation the table shall have effect subject to the variations made by the order:

Provided that before any such order is made a draft of the proposed order shall be laid before each House of Parliament for a period of not less than thirty days during which the House is sitting, and if either of those Houses before the expiration of those thirty days presents an address to His Majesty against the draft order or any part thereof no further proceedings shall be taken thereon, without prejudice to the making of a new draft order.

Probation.

7. Power to recognise and subsidise societies for care of youthful offenders on probation, &c.]

(1) If a society is formed or is already in existence having as its object or amongst its objects the care and control of persons under the age of twenty-one whilst on probation under the Probation of Offenders Act, 1907 [7 Edw. 7, c. 17], or of persons whilst placed out on licence from a reformatory or industrial school or Borstal institution, or under supervision after the determination of the period of their detention in such a school or institution, or under supervision in pursuance of this Act, or some one or more of such objects the society may apply to the Secretary of State for recognition, and the Secretary of State, if he approves of the constitution of the society and is satisfied as to the means adopted by the society for securing such objects as aforesaid, may grant his recognition to the society.

(2) Where a probation order is made by a court of summary jurisdiction in respect of a person who appears to the court to be under the age of twenty-one, the court may appoint any person provided by a recognised society to act as probation officer in the case.

(3) Where a probation officer provided by a

recognised society has been appointed to act in any case and it is subsequently found by the society expedient that some other officer provided by the society should be substituted for the officer originally appointed, the society may, subject to the approval of the court, appoint such other officer to act, and thereupon the probation order shall have effect as if such substituted officer had originally been appointed to act as probation officer.

(4) There may be paid to a recognised society out of moneys provided by Parliament towards the expenses incurred by the society such sums on such conditions as the Secretary of State, with the approval of the Treasury, may recommend.

8. Conditions of probation.] For subsection (2) of section two of the Probation of Offenders Act, 1907, which specifies the additional conditions which may be inserted in a recognisance under that Act, the following subsection shall be substituted:—

"(2) A recognisance under this Act may contain such additional conditions with respect to residence, abstinence from intoxicating liquor, and any other matters, as the court may, having regard to the particular circumstances of the case, consider necessary for preventing a repetition of the same offence or the commission of other offences."

9. Variation of terms and conditions of probation.] The following section shall be substituted for section five of the Probation of Offenders Act, 1907, which relates to the power of varying the conditions of recognisances:—

"The court before which any person is bound by a recognisance under this Act to appear for conviction and sentence or for sentence—

(a) may at any time if it appears to it, upon the application of the probation officer, that it is expedient that the terms or conditions of the recognisance should be varied, summon the person bound by the recognisance to appear before it, and, if he fails to show cause why such variation should not be made, vary the terms of the recognisance by extending or diminishing the duration thereof (so, however, that it shall not exceed three years from the date of the original order), or by altering the conditions thereof, or by inserting additional conditions; or

(b) may on application being made by the probation officer, and on being satisfied that the conduct of the person bound by the recognisance has been such as to make it unnecessary that he any longer be under supervision, discharge the recognisance."

Committals to Borstal Institutions.

10. Power to send youthful delinquents to Borstal institutions.] (1) Where a person is summarily convicted of any offence for which the court has power to impose a sentence of imprisonment for one month or upwards without the option of a fine, and—

(a) it appears to the court that the offender is not less than sixteen nor more than twenty-one years of age; and

(b) it is proved that the offender has previously been convicted of any offence or, that having been previously discharged on probation, he failed to observe a condition of his recognisance; and

(c) it appears to the court that by reason of the offender's criminal habits or tendencies, or association with persons of bad character, it is expedient that he should be subject to detention for such term and under such instruction and discipline as appears most conducive to his reformation and the repression of crime,

it shall be lawful for the court, in lieu of passing sentence, to commit the offender to prison until the next quarter sessions, and the court of quarter sessions shall inquire into the circumstances of the case, and, if it appears to the court that the offender is of such age as aforesaid and that

for any such reason as aforesaid it is expedient that the offender should be subject to such detention as aforesaid, shall pass such sentence of detention in a Borstal institution as is authorised by Part I. of the Prevention of Crime Act, 1908 [8 Edw. 7, c. 59], as amended by this Act; otherwise the court shall deal with the case in any way in which the court of summary jurisdiction might have dealt with it.

(2) A court of summary jurisdiction or court of quarter sessions, before dealing with any case under this section, shall consider any report or representations which may be made to it by or on behalf of the Prison Commissioners as to the suitability of the offender for such detention as aforesaid, and a court of summary jurisdiction shall, where necessary, adjourn the case for the purpose of giving an opportunity for such a report or representations being made.

(3) Where a person is committed to prison under this section, his treatment in prison shall, so far as practicable, be similar to that in Borstal institutions, or he may, if the Secretary of State so directs, be transferred to a Borstal institution.

(4) The Costs in Criminal Cases Act, 1908 [8 Edw. 7, c. 15], shall apply in the case of a person committed to prison by a court of summary jurisdiction under this section as if that person were committed for trial for an indictable offence.

(5) A person sentenced by a court of quarter sessions under this section to detention in a Borstal institution may appeal against the sentence to the Court of Criminal Appeal as if he had been convicted on indictment, and the provisions of the Criminal Appeal Act, 1907 [7 Edw. 7, c. 23], shall apply accordingly.

(6) This section shall come into operation on the first day of September, nineteen hundred and fifteen.

11. Amendment and application of Part I. of the Prevention of Crime Act, 1908.] (1) The term for which a person or youthful offender may be sentenced to detention in a Borstal institution under section one or section two of the Prevention of Crime Act, 1908, shall not be less than two years, and accordingly "two years" shall be substituted for "one year" in subsection (1) of section one and in section two respectively of that Act.

(2) The period for which a person sentenced to detention in a Borstal institution is on the expiration of the term of his sentence to remain under the supervision of the Prison Commissioners shall be one year, and accordingly "one year" shall be substituted for "six months" in subsection (1) of section six of the same Act.

(3) The maximum period for which a person so under the supervision of the Prison Commissioners may on recall to a Borstal institution be detained in such an institution shall be one year, and he may be so detained notwithstanding that the period of supervision has expired, and accordingly "one year" shall be substituted for "three months" in subsection (2) of section six of that Act.

(4) The provisions of Part I. of the Prevention of Crime Act, 1908, as so amended, shall apply to persons sentenced to detention in a Borstal institution under this Act in like manner as they apply to persons sentenced under that Part of that Act.

New Powers of Dealing with Offenders.

12. Power to order detention for one day in precincts of the court.] Where a court of summary jurisdiction has power to pass a sentence of imprisonment, the court, in lieu of passing a sentence of imprisonment, may order that the offender be detained within the precincts of the court, or at any police station, till such hour, not later than eight in the evening on the day on which he is convicted, as the court may direct:

Provided that a court of summary jurisdiction shall, before making an order of detention under this section, take into consideration the distance between the place of detention and the offender's abode (if his abode is known to, or ascertainable by, the court), and shall not make any such order of detention under this section as will deprive the

offender of a reasonable opportunity of returning to his abode on the day on which such order of detention is made.

13. Substitution of police custody for imprisonment in case of short sentences.] (1) No person shall be sentenced to imprisonment by a court of summary jurisdiction for a period of less than five days.

(2) Where a person is liable to be sentenced to imprisonment by a court of summary jurisdiction, the court may, if any suitable places provided and certified in manner hereinafter appearing are available for the purpose, order the person to be detained therein for such period not exceeding four days as the court thinks fit, and the order shall be delivered with the offender to the person in charge of the place where the offender is to be detained, and shall be a sufficient authority for his detention in that place in accordance with the tenor thereof.

(3) The expenses of the maintenance of persons detained under this section shall be defrayed in like manner as the expenses of the maintenance of prisoners in prisons to which the Prison Act, 1877 (40 & 41 Vict. c. 21), applies.

(4) The Secretary of State may, on the application of any police authority, certify any police cells, bridewells, or other similar places provided by the authority to be suitable places for the detention of persons sentenced to detention under this section, and may make regulations for the inspection of places so provided, the treatment of persons detained therein, and generally for carrying this section into effect:

Provided that no place so certified shall be used for the detention of females unless provision is made for their supervision by female officers.

(5) For the purposes of this section the expression "police authority," with respect to the City of London, means the Commissioner of City Police, and with respect to other places has the same meaning as in the Police Act, 1890 [53 & 54 Vict. c. 45].

14. Provisions as to malicious damage to property.] (1) If any person wilfully or maliciously commits any damage to any real or personal property whatsoever, either of a public or private nature, and the amount of the damage does not, in the opinion of the court, exceed twenty pounds, he shall be liable on summary conviction—

(a) if the amount of the damage, in the opinion of the court, exceeds five pounds, to imprisonment for a term not exceeding three months or to a fine not exceeding twenty pounds; and

(b) if the amount of the damage is, in the opinion of the court, five pounds or less, to imprisonment for a term not exceeding two months or to a fine not exceeding five pounds;

and in either case to the payment of such further amount as appears to the court reasonable compensation for the damage so committed which last-mentioned amount shall be paid to the party aggrieved:

Provided that this provision shall not apply where the alleged offender acted under a fair and reasonable supposition that he had a right to do the act complained of.

(2) So much of section fifty-one of the Malicious Damage Act, 1861 [24 & 25 Vict. c. 97], as limits the cases which may be dealt with under that section to cases where the damage, injury or spoil exceeds five pounds, shall be repealed, but a court of summary jurisdiction shall not commit any person for trial for an offence under that section unless it is of opinion that the damage, injury or spoil exceeds five pounds.

(3) Except so far as otherwise provided in the last foregoing subsection, nothing in this section shall be construed as preventing a court of summary jurisdiction from committing a person for trial for an offence notwithstanding that the offence is an offence which the court has power to deal with summarily under this section.

15. Extension of powers to deal with cases summarily.] (1) "Twenty pounds" shall be substituted for "forty shillings" wherever those

words occur in the second column of the First Schedule to the Summary Jurisdiction Act, 1879, or in the second column of the Schedule to the Summary Jurisdiction Act, 1899 [62 & 63 Vict. c. 22], in which columns are set forth the indictable offences for which an adult may, with his consent, be dealt with summarily.

In section twelve of the Summary Jurisdiction Act, 1879, after the words "not exceeding twenty pounds" there shall be inserted the following words "or, if the value of the property which was the subject of the offence, in the opinion of the court before which the charge is brought, exceeds forty shillings, to be imprisoned with or without hard labour for any term not exceeding six months or to pay a fine not exceeding fifty pounds."

(2) Section fourteen of the same Act (which imposes certain restrictions on the power to deal summarily with adults charged with indictable offences) is hereby repealed.

(3) Where a child is charged before a court of summary jurisdiction with a felony, and the court, in pursuance of the power conferred by section ten of the same Act, as amended by any subsequent enactment, deals with the case summarily, the court may, notwithstanding anything in that section, inflict a fine not exceeding forty shillings as a punishment.

Imprisonment.

16. Hard labour and classification of prisoners.] (1) Where imprisonment is imposed by any court in respect of the non-payment of any sum adjudged by that or any other court to be paid the imprisonment shall be without hard labour.

Where a person convicted by or before any court of an offence is sentenced to imprisonment without the option of a fine, the imprisonment may, in the discretion of the court, be either with or without hard labour, notwithstanding that the offence is an offence at common law or that the statute under which the sentence is passed does not authorise the imposition of hard labour or requires the imposition of hard labour.

(2) If no direction is given by a court in pursuance of the powers conferred by section six of the Prison Act, 1898 [61 & 62 Vict. c. 41], as to the division in which an offender is to be placed, the offender shall, subject to the provisions of that section, be treated as an offender of the third division unless the visiting committee consider the case suitable for treatment in the second division, and direct that the offender be so treated.

Subsection (2) of that section shall be amended by the insertion after the words "without hard labour" of the words "or committed to prison for non-payment of a fine."

(3) A court or visiting committee shall not direct an offender to be treated as an offender of the second division if his character and antecedents are such that he is likely to exercise a bad influence on first offenders.

(4) The provisions of subsections (1) and (2) of section six of the Prison Act, 1898, as amended by this section, which relate to the classification of offenders sentenced to imprisonment for offences, shall apply to cases where the person is sentenced to imprisonment for failing to do or to abstain from doing any act or thing required to be done or left undone.

(5) Subsection (3) of the same section (which requires that certain prisoners shall be placed in a separate division and treated under special rules and shall not be placed in association with criminal prisoners nor be compelled to wear prison dress unless their own clothing is unfit for use), shall extend to persons committed to prison for contempt of court, and accordingly the words "or for contempt of court" shall be inserted in that subsection after the words "hard labour."

17. Commitment and removal of prisoners.] There shall be substituted for sections twenty-four, twenty-five, twenty-six, and twenty-seven of the Prison Act, 1877, the following provisions—

(1) The Secretary of State may from time to time by any general or special rule under

the Prison Acts, 1865 to 1902, appropriate, either wholly or partially, particular prisons within his jurisdiction to particular classes of prisoners:

(2) A prisoner sentenced to imprisonment or committed to prison on remand, or pending trial, or otherwise, may be lawfully confined in any prison to which the Prison Acts, 1865 to 1902, apply:

(3) Prisoners shall be committed to such prisons as the Secretary of State may from time to time direct; and may on the like direction be removed therefrom during the term of their imprisonment to any other prison:

(4) Where a prisoner is discharged from a prison situate beyond the limits of the county, borough, or place in which he was arrested, the cost of his return to the place in which he was at the time of his arrest or to the place where he was convicted, whichever is the nearest, shall be paid out of moneys provided by Parliament on account of prisons:

(5) A prisoner shall not in any case be liable to pay the costs of his conveyance to prison:

(6) The Secretary of State, on being satisfied that a prisoner is suffering from disease and cannot be properly treated in the prison, or that he should undergo and desires to undergo a surgical operation which cannot properly be performed in the prison, may order that the prisoner be taken to a hospital or other suitable place for the purpose of treatment or the operation, and while absent from the prison in pursuance of such an order the prisoner shall be deemed to be in legal custody.

18. Consecutive sentences of imprisonment.] Where a sentence of imprisonment is passed on any person by a court of summary jurisdiction, the court may order that the sentence shall commence at the expiration of any other term of imprisonment to which that person has been previously sentenced, so however that where two or more sentences passed by a court of summary jurisdiction are ordered to run consecutively, the aggregate term of imprisonment shall not exceed six months, unless such sentences included at least two sentences for indictable offences dealt with summarily by consent or on a plea of guilty, in which case the aggregate term of imprisonment shall not exceed twelve months.

Bail and Remand.

19. Continuous bail.] Where a person is remanded on bail the recognisance may be conditioned for his appearance at every time and place to which during the course of the proceedings the hearing may be from time to time adjourned, without prejudice, however, to the power of the court to vary the order at any subsequent hearing.

20. Powers of remand.] (1) A court of summary jurisdiction, on being satisfied that a person accused of any offence who has been remanded is by reason of illness or accident unable at the expiration of the period for which he was remanded to appear personally before the court, may, in the absence of the accused person, order him to be further remanded for such time as may be deemed reasonable.

(2) The period for which a court of summary jurisdiction may remand on bail a person accused of an indictable offence may, if that person and the prosecutor consent, exceed eight days, and accordingly in section twenty-one of the Indictable Offences Act, 1848 [11 & 12 Vict. c. 42], after the words "not exceeding" where they first occur in that section, there shall be inserted the words "unless the person remanded and the prosecutor consent."

21. Endorsement on warrants as to release on bail.] (1) A justice on issuing a warrant for the arrest of any person may, if he thinks fit, by endorsement on the warrant, direct that the person named in the warrant be on arrest released on his entering into such a recognisance, with or

without sureties, for his appearance as may be specified in the endorsement, and the endorsement shall fix the amounts in which the principal and sureties (if any) are to be bound.

(2) Where such an endorsement is made, the officer in charge of any police station to which on arrest the person named in the warrant is brought shall discharge him upon his entering into a recognisance, with or without sureties approved by that officer, in accordance with the endorsement, conditioned for his appearance before the court and at the time and place named in the recognisance.

22. Release on bail of a person arrested without warrant. For section thirty-eight of the Summary Jurisdiction Act, 1879 [42 & 43 Vict. c. 49], the following section shall be substituted:

"On a person being taken into custody for an offence without a warrant, a superintendent or inspector of police, or other officer of police of equal or superior rank, or in charge of any police station, may in any case, and shall, if it will not be practicable to bring such person before a court of summary jurisdiction within twenty-four hours after he was so taken into custody, inquire into the case, and, unless the offence appears to such superintendent, inspector, or officer to be of a serious nature, discharge the person upon his entering into a recognisance with or without sureties for a reasonable amount to appear before some court of summary jurisdiction at the time and place named in the recognisance, but where such person is retained in custody he shall be brought before a court of summary jurisdiction as soon as practicable."

23. Notice of right to apply for bail. Where a court of summary jurisdiction commits a person charged with any misdemeanour for trial and does not admit him to bail the court shall inform the person accused of his right to apply for bail to a judge of the High Court of Justice.

24. Declaration of law as to mode of entering into recognisance. For removing doubts it is hereby declared that where as a condition of the release of any person he is required to enter into a recognisance with sureties, the recognisances of the sureties may be taken separately and either before or after the recognisances of the principal, and if so taken the recognisances of the principal and sureties shall be as binding as if they had been taken together and at the same time.

Miscellaneous and General.

25. Manner of enforcing payment of sums adjudged to be paid. (1) The following provision shall be substituted for subsection (3) of section twenty-one of the Summary Jurisdiction Act, 1879:—

"Where a sum is adjudged to be paid by a conviction of a court of summary jurisdiction, or in the case of a sum not a civil debt by an order of such court, and on default of payment of such sum a warrant of distress is authorised to be issued, the court may, in any case in which it appears expedient to do so, instead of issuing a warrant of distress, issue a warrant of commitment:

Provided that where time is not allowed for the payment of such sum, a warrant of commitment shall not be issued in the first instance unless it appears to the court that the offender has no goods or insufficient goods to satisfy the money payable, or that the levy of distress will be more injurious to him or his family than imprisonment."

(2) Where a sum is adjudged to be paid by a conviction or order of a court of summary jurisdiction, and, by the statute authorising such conviction or order, a mode of enforcing the payment thereof is provided which does not authorise the issue of a warrant of distress for the purpose, a warrant of distress may nevertheless be issued in like manner in all respects and with the like

consequences as if no mode of enforcing the payment were provided in such statute.

26. Provisions with respect to holders of licences and persons under police supervision. (1) An order under subsection (2) of section four of the Penal Servitude Act, 1891 [54 & 55 Vict. c. 69], remitting any of the requirements of sections five and eight of the Prevention of Crimes Act, 1871 [34 & 35 Vict. c. 112], in the case of any holder of a licence or person subject to the supervision of the police, may be made conditional on the observance of such conditions as may be specified in the order, and if the Secretary of State is satisfied that any condition imposed by the order has been contravened he may cancel the order.

(2) Where His Majesty has been pleased to revoke the licence granted to any convict under the Penal Servitude Act, 1853 to 1891, the convict shall thereupon be liable to be arrested without warrant by any constable and brought before a court of summary jurisdiction, and the court on being satisfied that he is the convict named in the licence and that the licence has been revoked, shall commit him to prison and forthwith send notice to the Secretary of State.

27. Power to issue warrants of arrest in certain cases. It is hereby declared that where at common law or under any Act, whether passed before or after the commencement of this Act, there is power to arrest a person without warrant, a warrant for his arrest may be issued.

28. Provisions as to evidence. (1) The record or extract by which a conviction may be proved under section eighteen of the Prevention of Crimes Act, 1871, may in the case of a summary conviction consist of a copy of the minute or memorandum of the conviction entered in the register required to be kept under section twenty-two of the Summary Jurisdiction Act, 1879, purporting to be signed by the clerk of the court by whom the register is kept.

(2) The provisions of section thirty of the Children Act, 1908 [Edw. 7. c. 67] (which enables the evidence of a child of tender years to be received though not given on oath), shall apply to proceedings against persons for offences not mentioned in that section, in like manner as they apply in respect of proceedings against persons for offences mentioned in that section.

(3) The wife or husband of a person charged with bigamy may be called as a witness either for the prosecution or defence and without the consent of the person charged.

(4) In any proceedings before a court of summary jurisdiction to enforce the payment of a sum of money adjudged by that or any other court of summary jurisdiction to be paid by one person to another person, then—

(a) if the person to whom the sum is ordered to be paid was an officer of a court of summary jurisdiction, the production of a certificate purporting to be signed by that officer that the sum has not been paid to him; and

(b) in any other case the production of a statutory declaration to a like effect purporting to be made by the person to whom the sum is ordered to be paid;

shall be evidence of the facts therein stated, unless the court requires such officer or other person to be called as a witness.

29. Power of justices to order production of documents. The provisions of section sixteen of the Indictable Offences Act, 1848, section seven of the Summary Jurisdiction Act, 1848 [11 & 12 Vict. c. 42], and section thirty-six of the Summary Jurisdiction Act, 1879 [11 & 12 Vict. c. 43], enabling a justice to issue a summons to any witness to attend to give evidence before a court of summary jurisdiction, shall be deemed to include the power to summon and require a witness to produce to such court books, plans, papers, documents, articles, goods, and things likely to be material evidence on the hearing of any charge, information, or complaint, and the provisions of those sections relating to the neglect or refusal of a witness, without just excuse, to attend to

give evidence, or to be sworn, or to give evidence, shall apply accordingly.

30. Periodical payments ordered by courts of summary jurisdiction. (1) Where a court of summary jurisdiction orders money to be paid periodically by one person to another, the court may, if it thinks fit, order that the payment shall be made through an officer of the court or any other person or officer specified in the order.

(2) Where a court of summary jurisdiction has either before or after the commencement of this Act ordered money to be paid periodically by one person to another, the court which made the order, or any other court of summary jurisdiction for the same petty sessional division, may, if it thinks fit, order that the payment shall be made through an officer of the court or any other person or officer specified in the order.

(3) Any order made either before or after the commencement of this Act by a court of summary jurisdiction for the periodical payment of money may, upon cause being shown upon fresh evidence to the satisfaction of the court, be revoked, revived, or varied by a subsequent order.

(4) Where a court of summary jurisdiction makes an order for the periodical payment of money through an officer of the court or other person or officer specified in the order, the authority having the control of the fund out of which the salary of the clerk of that court is paid may pay to that officer or person out of that fund, in manner provided by rules made by the Secretary of State, a sum not exceeding five pounds per centum on the money actually paid through him in pursuance of the order, as remuneration to him in respect of the work done and expenses incurred by him in respect of the order.

(5) Nothing in this section shall prejudice or affect the powers and duties of courts of summary jurisdiction under the Affiliation Orders Act, 1914 [4 & 5 Geo. 5, c. 6].

31. Costs. A court of summary jurisdiction to which an application is made for an order for the periodical payment of money, or for the variation, revocation, revival, or enforcement of such an order, may make an order for the payment by the applicant or the defendant, or both of them, of the costs of the court and such reasonable costs of either of the parties as the court thinks fit.

32. Recovery of arrears on bastardy orders. (1) It is hereby declared that, notwithstanding anything in section fifty-four of the Summary Jurisdiction Act, 1879, the provisions of section eleven of the Summary Jurisdiction Act, 1848 (which relate to the time within which summary proceedings are to be taken), do not apply to proceedings for enforcing the payment of sums adjudged to be paid by an order in any matter of bastardy or by an order enforceable as an order of affiliation.

(2) Proceedings for the enforcement of an order in any matter of bastardy or of an order enforceable as an order of affiliation may be taken at any time after the expiration of fourteen clear days from the making of the order, and accordingly in section four of the Bastardy Laws Amendment Act, 1872 [35 & 36 Vict. c. 65], "after the expiration of fourteen clear days" shall be substituted for "after the expiration of one calendar month."

(3) Where in any proceedings for the enforcement of an order in any matter of bastardy or of an order enforceable as an order of affiliation the court commits the defendant to prison then, unless the court otherwise directs, no arrears shall accrue under the order during the time that the defendant is in prison.

33. Amendment of the law with respect to the recovery of rates. The provisions of the Summary Jurisdiction Acts relating to the backing of warrants, and of section forty-one of the Summary Jurisdiction Act, 1879, relating to the proof of service of documents and of the handwriting and seal on documents, shall apply to proceedings in respect of the non-payment of any rate.

34. Appointment and remuneration of and accounting by justices' clerks. (1) Clerks to justices shall continue to be appointed as heretofore, but no appointment made after the commence-

ment of this Act shall be valid unless and until it is confirmed by the Secretary of State, and the Secretary of State shall, before confirming any such appointment, take into consideration any representations that may be made to him, in the case of the appointment of a clerk to borough justices by the council of the borough, and in the case of the appointment of a clerk to county justices by the standing joint committee of the county.

(2) Notwithstanding the provisions of any other general or local Act to the contrary, the salaries of clerks to justices shall be fixed and may from time to time be varied—

- (a) in the case of a clerk to borough justices, by the justices of the borough; and
- (b) in the case of a clerk to county justices, by the standing joint committee of the county:

Provided that—

- (i) in the case of the salary of a clerk to borough justices, the council of the borough; and
- (ii) in the case of the salary of a clerk to county justices, the county justices for whom the clerk acts; and
- (iii) in either case where the proposal is for a reduction of salary, the clerk to the justices

may appeal to the Secretary of State against the decision of the justices or standing joint committee, as the case may be, and the amount of the salary shall thereupon be determined by the Secretary of State.

(3) If the justices for any petty sessional division make representations to the standing joint committee of the county with a view to the variation of the salary of their clerk, the standing joint committee shall at a meeting of which special notice has been given take into consideration the question of varying the salary.

(4) The authority by whom the salary of a clerk is fixed may allow him such special remuneration in addition to his salary as they may, subject to the approval of the Secretary of State, determine, in respect of any duties which were not taken into account in fixing his salary.

(5) Nothing in the foregoing provisions of this section shall apply to clerks at metropolitan police courts nor to the clerks to the justices of the city of London nor to the clerk to any stipendiary magistrate other than a stipendiary magistrate appointed under the Municipal Corporations Act, 1882 [45 & 46 Vict. c. 50].

(6) If any clerk to justices fails without sufficient reason to account for or pay over any sum within one month from the time when he was required to account for or pay over the sum under section six of the Justices' Clerks Act, 1877 [40 & 41 Vict. c. 43], he shall be deemed to have wilfully omitted to account for or pay over that sum within the meaning of that section, but no person shall sue for a sum recoverable under that section, as amended by this section, except the person or authority to whom the account or payment is required to be made.

35. Punishment for accusation, &c., of dead person with intent to extort.] For the removing of doubts it is hereby declared that the enactments mentioned in the Third Schedule to this Act (which relate to divers forms of blackmail) apply to cases where the person is dead—

- (a) who is accused, or whom it is proposed to accuse; or
- (b) upon whom any libel is published, or is threatened to be published; or
- (c) touching whom it is threatened to print or publish, or it is proposed to abstain from printing or publishing, or it is offered to prevent the printing or publishing of, any matter or thing;

and accordingly the words "(whether living or dead)" shall be inserted after the word "person" in those enactments as indicated in the third column of that schedule.

36. Corporal punishment.] (1) No person shall be sentenced to be whipped more than once for the same offence.

(2) No person shall be sentenced to be whipped otherwise than under a statutory enactment.

37. Right of appeal from decision of court of summary jurisdiction.] (1) Any person aggrieved by any conviction of a court of summary jurisdiction in respect of any offence, who did not plead guilty or admit the truth of the information, may appeal from the conviction in manner provided by the Summary Jurisdiction Acts to a court of quarter sessions.

(2) An appeal shall lie to a court of quarter sessions in manner provided by the Summary Jurisdiction Acts from any order made by a court of summary jurisdiction under the enactments relating to bastardy, or from any refusal by a court of summary jurisdiction to make such an order, or from the revocation, revival, or variation by a court of summary jurisdiction of such an order.

38. One justice to be competent to exercise certain powers in respect of charges of drunkenness.] Notwithstanding any enactment to the contrary, it shall be sufficient for a court of summary jurisdiction to consist of one justice only when hearing, trying, adjudging, and determining a charge or information against any person of having been found drunk in any highway or other public place, whether a building or not, or on any licensed premises, under section twelve of the Licensing Act, 1872 [35 & 36 Vict. c. 94].

39. Convictions on indictments.] (1) Where a prisoner is arraigned on an indictment for any offence, and can lawfully be convicted on such indictment of some other offence not charged in such indictment, he may plead not guilty of the offence charged in the indictment, but guilty of such other offence.

(2) If on the trial of any indictment for larceny it is proved that the defendant took any chattel, money, or valuable security in question in any such manner as would amount in law to obtaining it by false pretences with intent to defraud, the jury may acquit the defendant of larceny and find him guilty of obtaining the chattel, money, or valuable security by false pretences, and thereupon he shall be liable to be punished accordingly.

40. Rules.] (1) The power of the Lord Chancellor to make rules under section twenty-nine of the Summary Jurisdiction Act, 1879, shall extend to the making of rules—

- (a) for regulating the manner in which convictions and orders of courts of summary jurisdiction are to be drawn up, and in such cases as may be provided for by the rules, the transmission of such convictions and orders and any other documents therewith to the clerk of the peace and the filing of them by him, and
- (b) for annulling, altering, or adding to the forms contained in the schedule to the Indictable Offences Act, 1848, and
- (c) for regulating the procedure of courts of summary jurisdiction under this Act, and the procedure in any legal proceedings which under any Act, whether general or local, and whether passed before or after the commencement of this Act (other than the Summary Jurisdiction Acts), are to be taken before any police or stipendiary magistrate or other court of summary jurisdiction.

(2) His Majesty may, by Order in Council, make rules extending the operation of the Summary Jurisdiction (Process) Act, 1881 [44 & 45 Vict. c. 24], as amended by any subsequent enactment (which relates to the service and execution in Scotland of process issued by courts of summary jurisdiction in England, and in England of process issued by courts of summary jurisdiction and sheriff courts in Scotland, and to the jurisdiction of courts in England and Scotland respectively in bastardy proceedings), so as to make the provisions of that Act, subject to the necessary adaptations, applicable as between any one part of the British Islands and any other part of the British Islands in like manner as it applies as between England and Scotland.

This subsection shall extend to the Isle of Man and the Channel Islands, and the Royal Courts of the Channel Islands shall register the same accordingly.

41. Definitions.] For the purposes of this Act, unless the context otherwise requires—

- (1) The expression "sentence to imprisonment" shall include cases where imprisonment is imposed by a court on any person either with or without the option of a fine, or in respect of the non-payment of any sum of money, or for failing to do or abstaining from doing any act or thing required to be done or left undone, and the expression "sentence of imprisonment" shall be construed accordingly;
- (2) The expressions "fine," "sum adjudged to be paid by a conviction," and "sum adjudged to be paid by an order," have the same meanings as in the Summary Jurisdiction Act, 1879.

42. Application to Scotland.] This Act in its application to Scotland shall be subject to the following modifications:—

- (1) The Secretary for Scotland shall be substituted for the Secretary of State; the Prison Commissioners for Scotland shall be substituted for the Prison Commissioners; the Prisons (Scotland) Act, 1877 [40 & 41 Vict. c. 53], shall be substituted for the Prison Act, 1877; the Police (Scotland) Act, 1890 [53 & 54 Vict. c. 67], shall be substituted for the Police Act, 1890; an institution established in Scotland under Part I. of the Prevention of Crime Act, 1908, shall be substituted for a Borstal institution: a reference to a sum of money adjudged to be paid shall be deemed to be a reference to a penalty as defined in section two of the Summary Jurisdiction (Scotland) Act, 1908 [8 Edw. 7. c. 65];—
- (2) Section one of this Act shall not apply and in lieu thereof the following provisions shall be substituted:—

"(a) On conviction of any person by a court of summary jurisdiction the court shall allow time for the payment of any sum adjudged to be paid by such person in respect of such conviction, unless it is satisfied that he is possessed of sufficient means to enable him to pay the sum forthwith, or unless, upon being asked by the court whether he desires that time should be allowed for payment, he does not express any such desire, or fails to satisfy the court that he has a fixed abode within its jurisdiction, or unless the court for any other special reason is satisfied that no time should be allowed:

(b) Where any such person desires to be allowed time for payment, the court, in deciding what time shall be allowed, shall consider any representation made by him, but the time allowed shall not be less than seven clear days:

Provided that, if before the expiration of the time allowed the person convicted surrenders himself to the court and states that he prefers immediate imprisonment to awaiting the expiration of the time allowed, the court may authorise the clerk of court to issue forthwith an extract of the finding and sentence in the form of the Second Schedule to this Act, and the provisions of the Summary Jurisdiction (Scotland) Act, 1908 [8 Edw. 7. c. 65], shall apply to such extract as if it were one of the forms included in Schedule E. to that Act;

(c) Where a person so allowed time for payment as aforesaid appears to the court to be not less than sixteen nor more than twenty-one years of age, the court may, if it thinks fit and subject to any rules made under this Act, order that he be placed under the supervision of such person as may be appointed by the court until the sum adjudged to be paid is paid, and, in such case, before issuing an extract of

the conviction and sentence, the clerk of court shall again lay the complaint before the court and the court shall consider any report as to the conduct and means of the offender which may be made by the person under whose supervision the offender has been placed;

(d) In all cases where time is not allowed for payment the reasons of the court for not so allowing a time shall be stated in the finding and sentence":

- (3) Section two of this Act shall not apply, and in lieu thereof the following provisions shall be substituted:—

"Where time has been allowed for payment of a sum adjudged to be paid by any person in respect of his conviction by a court of summary jurisdiction, the court may, subject to any rules made under this Act, on an application by or on behalf of such person, and after giving the prosecutor an opportunity of being heard, allow further time for the payment of such sum":

- (4) Section three of this Act shall not apply:

- (5) Subsection (1) of section four of this Act shall apply as if references to proceedings for enforcing bastardy or maintenance orders were omitted therefrom. Subsection (2) of section four of this Act shall not apply:

- (6) Section five of this Act shall not apply: Provided that in Scotland a court of summary jurisdiction in fixing the amount of any fine to be imposed on any offender shall take into consideration, amongst other things, the means of the offender so far as they appear or are known to the court:

- (7) Section six of this Act shall not apply:

- (8) Section ten of this Act shall not apply: Provided that in Scotland, from and after such date as may be prescribed by the Secretary for Scotland, section one of the Prevention of Crime Act, 1908, shall be construed as if after the words "penal servitude or imprisonment" there were inserted the words "or is convicted by the sheriff summarily of an offence for which he is liable to be sentenced to imprisonment":

- (9) Section thirteen of this Act shall apply with the substitution of the expression "an extract of the finding and sentence" for the expression "the order":

- (10) Sections fourteen to twenty-five, both inclusive, subsections (1), (2), and (4) of section twenty-eight, sections twenty-nine to forty, both inclusive, and subsection (2) of section forty-one of this Act, shall not apply:

- (11) Provision may be made by rules under the Prisons (Scotland) Act, 1877, for enabling a prisoner sentenced to imprisonment, whether by one sentence or cumulative sentences, for a period prescribed by the rules, to earn by special industry and good conduct a remission of a portion of his imprisonment, and on his discharge his sentence shall be deemed to have expired:

- (12) It shall be lawful for the High Court of Justiciary by Act of Adjournment to make rules for regulating the procedure under this Act.

43. *Application to Ireland.* (1) The provisions of sections one to four inclusive, sections seven to twelve inclusive, sections sixteen to twenty-one inclusive, section twenty-four, subsection (2) of section twenty-five, sections twenty-six and twenty-seven, subsections (2) and (4) of section twenty-eight, sections thirty-five, thirty-six, and thirty-nine, and subsection (1) of section forty-

one of this Act shall apply to Ireland, subject to the following modifications, namely:—

- (a) references to the Lord Lieutenant shall be substituted for references to the Secretary of State, and references to the General Prisons Board for Ireland shall be substituted for references to the Prison Commissioners;

- (b) a reference to the Prisons (Ireland) Acts, 1826 to 1907, shall be substituted for any reference to the Prison Acts, 1865 to 1902, and a reference to sections thirty-six, thirty-seven, thirty-eight, and thirty-nine of the General Prisons (Ireland) Act, 1877 [40 & 41 Vict. c. 49], shall be substituted for the reference to sections twenty-four, twenty-five, twenty-six, and twenty-seven of the Prison Act, 1877.

- (c) references to the Court of Criminal Appeal, the Criminal Appeal Act, 1907, and the Costs in Criminal Cases Act, 1908, and the provision of section two of this Act relative to payment by instalments, shall not apply; and

- (d) subsection (2) of section twenty of this Act shall apply as respects the police district of Dublin metropolis only, and a reference to section twenty-one of the Indictable Offences (Ireland) Act, 1849 [12 & 13 Vict. c. 69], shall be substituted for the reference therein to section twenty-one of the Indictable Offences Act, 1848.

(2) A court of summary jurisdiction, in fixing the amount of any fine to be imposed on an offender, shall take into consideration, amongst other things, the means of the offender so far as they appear or are known to the court.

(3) Proceedings for the recovery in a summary manner of a penalty for an offence under the Births and Deaths Registration Act (Ireland), 1880 [43 & 44 Vict. c. 13], may be commenced at any time within three years after the commission of the offence.

(4) Where upon summary conviction an offender is adjudged to pay a penalty exceeding five pounds, the offender in case of non-payment thereof may without any warrant of distress be committed to prison for any term not exceeding the period for which he might be committed to prison in default of distress: Provided that where time is not allowed for the payment of the penalty a warrant of commitment shall not be issued in the first instance unless it appears to the court that the offender has no goods or insufficient goods to satisfy the penalty, or that the levy of distress would be more injurious to him or his family than imprisonment.

(5) So much of section three of the Fines Act (Ireland), 1851 [14 & 15 Vict. c. 90], as requires that a warrant for the execution of an order of a divisional justice of the police district of Dublin metropolis for the imposition or levy of a penal sum shall be issued within one week from the making of the order, shall cease to have effect.

(6) Upon any information or complaint laid or made before a divisional justice of the police district of Dublin metropolis of an offence punishable on summary conviction, if the person charged resides within the limits of that district, the justice shall, notwithstanding that the offence has been or is alleged to have been committed outside those limits, have all the like powers, jurisdiction, and authority as he has upon an information or complaint laid or made of a similar offence committed or alleged to have been committed within those limits.

(7) So much of section twenty-two of the Petty Sessions (Ireland) Act, 1851 [14 & 15 Vict. c. 93], as relates to the liability of persons aiding, abetting, counselling, or procuring the commission of offences punishable on summary conviction shall, as amended by any subsequent enactment, extend to the police district of Dublin metropolis; and every person who aids, abets, counsels, or procures the commission of any such offence may be proceeded against and convicted in that district in any case where the principal offender may

be convicted in that district, or where the offence of aiding, abetting, counselling, or procuring was committed in that district.

(8) Section three (which relates to boards of visitors for convict prisons), section six (which relates to divisions of prisoners), section eleven (which relates to orders for production of prisoners), and, so far as respects sentences of imprisonment passed after the commencement of this Act, section twelve (which relates to calculation of term of sentence) of the Prison Act, 1898, shall, as amended by this Act, extend to Ireland subject to the following modifications, namely:—

- (a) references to the Lord Lieutenant shall be substituted for references to the Secretary of State;

- (b) references to rules made by the General Prisons Board for Ireland with the approval of the Lord Lieutenant and Privy Council under the General Prisons (Ireland) Act, 1877, shall be substituted for any references to prison rules or special prison rules;

- (c) a reference to section forty-nine of the General Prisons (Ireland) Act, 1877, shall be substituted for the reference to sections forty and forty-one of the Prison Act, 1877, and references to provisions of the Prison Act, 1865 [28 & 29 Vict. c. 126], or the Criminal Procedure Act, 1853 [16 & 17 Vict. c. 30], shall not apply.

(9) For removing doubts it is declared that in section twenty-four of the General Prisons (Ireland) Act, 1877, and section three of the Prisons (Ireland) Amendment Act, 1884 [47 & 48 Vict. c. 36] (which relate to visiting committees of prisons), the expressions "grand jury" and "grand juries" respectively, include, in the case of the county of Dublin, a grand jury of that county impanelled at a commission of oyer and terminer and general gaol delivery.

(10) The Lord Chancellor may make rules for the purposes of this Act regulating the procedure to be followed, and prescribing the forms to be used in summary proceedings, and regulating and prescribing any other matter or thing which for the purposes aforesaid requires to be regulated or prescribed, and adapting to the requirements of this Act any forms relating to summary proceedings prescribed by or in pursuance of any other Act, and all rules so made shall be laid as soon as may be before both Houses of Parliament.

(11) An appeal under section twenty-seven of the Dublin Police Act, 1837 [7 Will. 4 and 1 Vict. c. 25], section twenty-three of the Summary Jurisdiction (Ireland) Act, 1851 [14 & 15 Vict. c. 92], or section twenty-four of the Petty Sessions (Ireland) Act, 1851 [14 & 15 Vict. c. 93], against a conviction of a court of summary jurisdiction in respect of an offence shall lie whatever may be the amount of the fine or the term of the imprisonment imposed.

(12) Where a person convicted of an offence by a court of summary jurisdiction is committed to prison by the court under section ten of this Act without sentence he may appeal under the Summary Jurisdiction Acts against the conviction, and the provisions of those Acts with respect to appeals shall apply accordingly.

(13) Upon any information, summons, or complaint laid or made before a court of summary jurisdiction in Ireland wherein the defendant is called upon to show cause why such defendant should not be bound over to keep the peace or be of good behaviour, the defendant shall be entitled to call witnesses and tender evidence at the hearing of the information, summons, or complaint.

(14) Save as provided in this section, the foregoing provisions of this Act shall not extend to Ireland.

44. *Short title, commencement, and repeal.*

(1) This Act may be cited as the Criminal Justice Administration Act, 1914, and shall, save as otherwise expressly provided, come into operation on the first day of December nineteen hundred and fourteen.

(2) The enactments mentioned in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

SCHEDULES.
FIRST SCHEDULE.

[Sections 5, 6.]

PART I.

TABLE OF COURT FEES TO BE TAKEN BY CLERKS
TO JUSTICES OF THE PEACE.

INDICTABLE OFFENCES:—	£ s. d.
For the performance of all the several duties in every case committed for trial to the assizes or sessions, without regard to the number of prisoners included in the same charge (This fee does not cover taking recognisances or giving notice to the accused and his sureties when admitted to bail; nor attending to take the deposition of a witness prevented by sickness or otherwise from appearing in court; nor supplying a copy of depositions. In cases of dismissal the separate fees for information, &c., are chargeable.)	1 5 0
For the performance of all the several duties (including commitment) in respect of any indictable offence dealt with summarily without regard to the number of persons charged in each case, and whether there is a conviction or not	0 15 0
SUMMARY ADJUDICATIONS:—	
For the performance of all the several duties up to and including conviction in respect of any charge for an offence (other than an indictable offence) punishable on summary conviction	0 4 0
ELEMENTARY EDUCATION ACTS:—	
Proceedings under the Acts, in each case, including summons, order, and conviction	0 4 0
Distress warrants (if any)	0 1 0
Committal (if any)	0 1 0
For services not covered by the foregoing fees the following fees may be charged:—	
APPOINTMENT:—	
Of parochial or other officers (except constables), to contain the names of all the persons appointed at the same time to the same office in the parish, hamlet, or place, including notice and oath when necessary	0 5 0
Of any constable (other than special)	0 1 0
Of valuer, arbitrator, &c.	0 10 0
Of special constables, if less than 28, for each person, to include notice, oath, and certificate	0 1 0
If more than 28 are appointed on one occasion, for attending to summons, swear in, and make out appointments, and the business thereof, for each day	2 2 0
ARMY ACT, 1881 (44 & 45 VICT. c. 58):—	
Attestation of recruit (section 80 (4) (d))	0 1 0
Descriptive return in relation to deserter (section 154 (6))	0 2 0
Certificate of civil conviction or acquittal (section 164)	0 3 0
Warrant to provide carriages (section 112)	0 1 0
ATTENDANCE:—	
On a justice, to view deserted premises in order to affix notice or to give possession thereof, to view a highway, bridge, or nuisance, or to take an examination elsewhere than in court	0 6 8
If required to go more than one mile from the place of holding petty sessions, for each mile after the first (one way)	0 1 0
CASE FOR THE OPINION OF SUPERIOR COURT (20 & 21 VICT. c. 43, SECTION 3):—	
Drawing case and copy, when the case does not exceed five folios of 90 words	0 10 0

For every additional folio beyond five	0 1 0
Taking recognisance as required by the Act	0 5 0
Every enlargement or renewal thereof	0 2 6
For certificate of refusal of case	0 2 0
CERTIFICATE:—	
Every certificate not otherwise charged	0 2 0
CERTIORARI:—	
Return to and filing	0 13 4
CIVIL DEBT (not including Rates):—	
Summons and copy	0 1 6
Complaint	0 1 0
Order and copy	0 3 0
Oath (each witness)	0 1 0
Judgment summons and copy, including hearing	0 3 0
Warrant of distress	0 2 0
Commitment. (See Warrant.)	
COMPLAINT:—	
Every complaint not otherwise charged	0 1 0
CONVICTION:—	
Every conviction, including returning same to the court (to include all persons convicted on the same charge, except in cases where all persons convicted on the same charge cannot be included in the same conviction)	0 2 6
COPY:—	
Of depositions for prosecutor on the trial, per folio of 90 words	0 0 4
Of depositions for prisoner, under 11 & 12 VICT. c. 42, s. 27, per folio of 90 words, not exceeding	0 0 1½
Of any other document, per folio of 72 words	0 0 4
DUPLICATE:—	
For the duplicate of any document	One-half the original fee.
EXAMINATION. (See Information.)	
EXHIBIT:—	
Each document annexed to or referred to in any affidavit or declaration and marked	0 1 0
EXPLOSIVES ACT, 1875 (38 VICT. c. 17):—	
Store licence (s. 15), not exceeding	0 5 0
Store licence, renewal (s. 18), not exceeding	0 1 0
Registering premises (s. 21), not exceeding	0 1 0
Registering premises, renewal, not exceeding	0 1 0
Small firework factory (s. 49) licence, not exceeding	0 5 0
Small firework factory (s. 49) licence, renewal not exceeding	0 1 0
EXTRADITION ACT, 1873 (36 & 37 VICT. c. 60, s. 5):—	
For taking a deposition in pursuance of an order made by the Secretary of State	1 1 0
Each subsequent deposition taken in pursuance of the same order	0 5 0
HEARING:—	
When no conviction or order is made	0 1 0
INFORMATION:—	
Each information or examination (including oath)	0 1 0
JURY LISTS:—	
For forwarding lists with schedule to the clerk of the peace (25 & 26 VICT. c. 107, s. 9)	0 2 6
Revision fee to be fixed by the local authority subject to approval of Secretary of State.	
LICENCES:—	
For every licence, consent, or authority not otherwise provided for, to include registration when necessary	0 5 0
LIST:—	
Every list not otherwise provided for which it is the duty of the clerk to the justices to make or transmit	0 2 6

NOTICE:—	
Every notice not otherwise provided for	0 1 0
OATH:—	
Every oath, affirmation, or solemn declaration not otherwise charged	0 1 0
(Vide note at end of table.)	
ORDER:—	
Order, certificate, or record of proceedings in case of deserted premises, or relating to a highway, bridge, or nuisance, or for protecting separate property of a married woman	0 5 0
Order as to the settlement, removal, or maintenance of a pauper or lunatic, or in case of fraudulent removal of goods	0 5 0
Order for payment of allowance to special constables (one order to include all the constables appointed)	0 2 0
Every order or minute thereof not otherwise charged	0 3 0
Order as to the affiliation of a bastard or under the Summary Jurisdiction (Married Women) Act, 1895	0 2 0
Variation, revocation, or revival of order	0 1 0
PRECEPT:—	
Every precept	0 1 6
RATE:—	
Amending a rate, each name	0 1 0
Taxing costs and order thereon	0 3 0
Order on appeal	0 5 0
Order for adjourning appeal, if required	0 1 0
Allowance of rate	0 2 0
Enforcement of any poor, general district, or other rate, to include complaint, summons, and all other proceedings for which separate fees are not provided hereunder	0 2 0
Order	0 2 0
Warrant of distress	0 2 0
Judgment summons (including hearing)	0 2 6
Summons (if any) in poor rate cases to show cause why default should not be committed	0 2 0
Commitment	0 2 0
If more than one rate is included in the summons, for each rate after the first	0 0 6
When the form of warrant provided for by 12 & 13 VICT. c. 14, s. 3 is used, for each name inserted in the schedule over and above eight	0 0 3
RECOGNISANCE:—	
Every recognisance	0 2 6
Notice to each person bound	0 0 6
SUMMONS:—	
Every summons (to include all the names included in the same charge or intended to be summoned as witnesses in the same case for the prosecution or defence if applied for at the same time)	0 1 0
Every copy	0 0 6
Backing summons for service from outside jurisdiction	0 1 0
WARRANT:—	
Every warrant of distress when not otherwise provided for	0 2 0
To commit after conviction or order in which the conviction or order is set forth	0 2 0
Every other warrant	0 1 0
Return to warrant or endorsing warrant, including oath	0 1 0
Backing warrant for execution from outside jurisdiction	0 1 0
NOTE.—Nothing herein contained shall be construed to authorise the demand of any fee for re-swearing any person to any examination, or for any oath, affirmation, or declaration to obtain pay, pension, or allowance from government or friendly society, or charitable fund, or for any declaration relating to lost duplicates of articles pledged where the amount advanced on such	

articles does not exceed 20s., or in any other case where an Act of Parliament directs that no fee shall be taken.

PART II.

MATTERS TO WHICH PART I. DOES NOT APPLY.

1. Matters in respect of which fees are authorized to be charged by the Licensing (Consolidation) Act, 1910 (10 Edw. 7 and 1 Geo. 5, c. 24).

2. Billiard licences, under section ten of the Gaming Act, 1844 (8 & 9 Vict. c. 109).

3. Theatre licences, under section six of the Theatres Act, 1843 (6 & 7 Vict. c. 68).

4. The registration of music and dancing licences under section fifty-one of the Public Health Act, 1890 (53 & 54 Vict. c. 59).

5. Licences under the Cinematograph Act, 1909 (9 Edw. 7, c. 30).

6. Assessment appeals under the Valuation Metropolis Act, 1869 (32 and 33 Vict. c. 67).

7. Formal investigations into shipping casualties under section four hundred and seventy-nine of the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60).

8. Appeals from pilotage authority under section twenty-eight of the Pilotage Act, 1913 (2 & 3 Geo. 5, c. 31).

SECOND SCHEDULE.

[Section 42.]

Sentence £ , fine payable within days or days' imprisonment. In respect of which sentence the accused, having surrendered himself to the court and stated that he prefers immediate imprisonment to waiting the expiration of the time allowed, warrant is hereby granted to officers of law to convey the accused to the prison of [place] and for the detention of the accused therein until such fine is paid, but not exceeding days from the date of imprisonment.

THIRD SCHEDULE.

[Section 35.]

AMENDMENT OF ENACTMENTS RELATING TO
BLACKMAIL.

Session and Chapter.	Short Title	Amendment of Enactment by insertion of words " (whether living or dead)."
6 & 7 Vict. c. 96, s. 3.	The Libel Act, 1843.	After the words "any libel upon any other person," and "any matter or thing touching any other person."
24 & 25 Vict. c. 96, s. 46.	The Larceny Act, 1861.	After the words "to accuse any other person."
s. 47.	- - - -	After the words "or any other person."
s. 48.	- - - -	After the words "accuse any person."

FOURTH SCHEDULE.

[Section 44.]

ENACTMENTS REPEALED.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
3 Jan. 1, c. 10.	An Act for the rating and levying of the charges for conveying Malefactors and Offenders to the Gaols.	The whole Act so far as unrepealed.
15 Geo. 2, c. 24.	The Justices Commitment Act, 1741.	The whole Act.

Session and Chapter.	Title or Short Title.	Extent of Repeal.	Session and Chapter.	Title or Short Title.	Extent of Repeal.
26 Geo. 2, c. 14.	The Justices' Clerks' Fees Act, 1753.	The whole Act.	14 & 15 Vict. c. 55.	The Criminal Justice Administration Act, 1851.	Section nine, except so far as that section relates to clerks of the peace.
27 Geo. 2, c. 3.	The Offenders (Conveyance) Act, 1754.	The whole Act so far as unrepealed.	14 & 15 Vict. c. 93.	The Petty Sessions (Ireland) Act, 1851.	In section twenty-two, paragraph (6).
27 Geo. 2, c. 16.	The Justices' Clerks' Fees (Middlesex) Act, 1754.	Section four.	20 & 21 Vict. c. 43.	The Summary Jurisdiction Act, 1857.	In section three the words from "which fees" to "section thirty," and Schedule A.
54 Geo. 3, c. 170.	The Poor Relief Act, 1814.	Section twelve from "and if sufficient distress" to the end of the section.	21 & 25 Vict. c. 97.	The Malicious Damage Act, 1861.	In section fifty-one the words "the damage, injury, or spoil being to an amount exceeding five pounds" and section fifty-two and fifty-three, so far as those words and sections relate to England.
7 Geo. 4, c. 74.	The Prisons (Ireland) Act, 1820.	In section six, the words "hereinafter enumerated," and from "provision shall be made," to "vagrants," section one hundred and nine.	26 & 27 Vict. c. 44.	The Garroters Act, 1863.	In section one, the words "twice or thrice."
1 & 2 Will. 4, c. 44.	The Tumultuous Risings (Ireland) Act, 1831.	In sections two, three, four, five and six, the words "twice or thrice."	39 & 40 Vict. c. 36.	The Customs Consolidation Act, 1876.	Section two hundred and forty-six and the table of fees therein referred to, so far as the same relate to England.
5 & 6 Will. 4, c. 50.	The Highway Act, 1835.	Section one hundred and ten, so far as it relates to clerks to justices.	39 & 40 Vict. c. 61.	The Divided Parishes and Poor Law Amendment Act, 1876.	Section thirty-two.
5 & 6 Vict. c. 28.	The Capital Punishment (Ireland) Act, 1842.	In section eight, the words "twice or thrice."	40 & 41 Vict. c. 21.	The Prison Act, 1877.	Sections twenty-four, twenty-five, twenty-six, twenty-seven, and forty-one, and in section fifty-seven the words "in respect of his conveyance to prison or otherwise."
5 & 6 Vict. c. 51.	The Treason Act, 1842.	In section two, the words "as often and" and "not exceeding thrice."	40 & 41 Vict. c. 43.	The Justices' Clerks Act, 1877.	Section eight.
11 & 12 Vict. c. 42.	The Indictable Offences Act, 1848.	Section twenty-six from "Provided nevertheless" to the end of the section.	40 & 41 Vict. c. 49.	The General Prisons (Ireland) Act, 1877.	Sections thirty-six, thirty-seven, thirty-eight, thirty-nine, and forty-eight, in section three, the words "in respect of his conveyance to prison or otherwise," in section twelve, from "no rule" to the end of the section.
11 & 12 Vict. c. 43.	The Summary Jurisdiction Act, 1848.	In section fourteen the words from "and the conviction or order shall afterwards be drawn up" to "quarter sessions of the peace." Section twenty-one the words "and conveying of a defendant to prison." Section on twenty-three from "and also the costs" to "think fit so to order." Section twenty-five from "and it shall be lawful" to the end of the section.			
13 & 14 Vict. c. 101.	The Poor Law Amendment Act, 1850.	In section seven the words "by the justices of the peace at their respective general quarter sessions."	42 & 43 Vict. c. 49.	The Summary Jurisdiction Act, 1879.	Section five from "And such imprisonment" to the end of the section. Section fourteen. Section eighteen.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
42 & 43 Vict. c. 49.	The Summary Jurisdiction Act, 1879.	Subsections (3) and (4) of section twenty-one. Subsection (2) of section twenty-two from "but nothing in this section" to the end of that subsection. Paragraph (6) of section twenty-seven.
61 & 62 Vict. c. 41.	The Prison Act, 1898.	Subsection (4) of section six and section nine.
4 Edw. 7, c. 15.	The Prevention of Cruelty to Children Act, 1904.	Section fifteen.
7 Edw. 7, c. 17.	The Probation of Offenders Act, 1907.	Subsection (2) of section two, and section five.
8 Edw. 7, c. 59.	The Prevention of Crimes Act, 1908.	In subsection (2) of section six from "and at latest within three months" to the end of that subsection.
9 Edw. 7, c. 67.	The Children Act, 1908.	In section thirty the words "under this Part of this Act or for any of the offences mentioned in the First Schedule to this Act, the child in respect of whom the offence is charged to have been committed or" and the word "other" where it first occurs in the same section.

CHAPTER 59.

[BANKRUPTCY ACT, 1914.]

An Act to consolidate the Law relating to Bankruptcy.

[10th August, 1914.]

PART I.

PROCEEDINGS FROM ACT OF BANKRUPTCY TO DISCHARGE.

*Acts of Bankruptcy.

1. *Acts of bankruptcy.* (1) A debtor commits an act of bankruptcy in each of the following cases:—

- If in England or elsewhere he makes a conveyance or assignment of his property to a trustee or trustees for the benefit of his creditors generally;
- If in England or elsewhere he makes a fraudulent conveyance, gift, delivery, or transfer of his property, or of any part thereof;
- If in England or elsewhere he makes any conveyance or transfer of his property or any part thereof, or creates any charge thereon, which would under this or any other Act be void as a fraudulent preference if he were adjudged bankrupt;
- If with intent to defeat or delay his creditors he does any of the following things, namely, departs out of England, or being out of England remains out of

England, or departs from his dwelling-house, or otherwise absents himself, or begins to keep house;

- If execution against him has been levied by seizure of his goods under process in an action in any court, or in any civil proceedings in the High Court, and the goods have been either sold or held by the sheriff for twenty-one days;

Provided that, where an interpleader summons has been taken out in regard to the goods seized, the time elapsing between the date at which such summons is taken out and the date at which the proceedings on such summons are finally disposed of, settled, or abandoned, shall not be taken into account in calculating such period of twenty-one days;

- If he files in the court a declaration of his inability to pay his debts or presents a bankruptcy petition against himself;
- If a creditor has obtained a final judgment or final order against him for any amount, and, execution thereon not having been stayed, has served on him in England, or, by leave of the court, elsewhere, a bankruptcy notice under this Act, and he does not, within seven days after service of the notice, in case the service is effected in England, and in case the service is effected elsewhere, then within the time limited in that behalf by the order giving leave to effect the service, either comply with the requirements of the notice or satisfy the court that he has a counter-claim set-off or cross demand which equals or exceeds the amount of the judgment debt or sum ordered to be paid, and which he could not set up in the action in which the judgment was obtained, or the proceedings in which the order was obtained;

For the purposes of this paragraph and of section two of this Act, any person who is, for the time being, entitled to enforce a final judgment or final order, shall be deemed to be a creditor who has obtained a final judgment or final order.

- If the debtor gives notice to any of his creditors that he has suspended, or that he is about to suspend, payment of his debts.
- (2) In this Act, the expression "a debtor," unless the context otherwise implies, includes any person, whether a British subject or not, who at the time when any act of bankruptcy was done or suffered by him—

- was personally present in England; or
- ordinarily resided or had a place of residence in England; or
- was carrying on business in England, personally, or by means of an agent or manager; or
- was a member of a firm or partnership which carried on business in England.

2. *Bankruptcy notices.* A bankruptcy notice under this Act shall be in the prescribed form, and shall require the debtor to pay the judgment debt or sum ordered to be paid in accordance with the terms of the judgment or order, or to secure or compound for it to the satisfaction of the creditor or the court, and shall state the consequences of non-compliance with the notice, and shall be served in the prescribed manner:

Provided that a bankruptcy notice—

- may specify an agent to act on behalf of the creditor in respect of any payment or other thing required by the notice to be made to, or done to the satisfaction of, the creditor;
- shall not be invalidated by reason only that the sum specified in the notice as the amount due exceeds the amount actually due, unless the debtor within the time allowed for payment gives notice to the creditor that he disputes the validity of the notice on the ground of such misstatement; but, if the debtor does not give such notice, he shall be deemed to

have complied with the bankruptcy notice if within the time allowed he takes such steps as would have constituted a compliance with the notice had the actual amount due been correctly specified therein.

Receiving Order.

3. *Jurisdiction to make receiving order.* Subject to the conditions herein-after specified, if a debtor commits an act of bankruptcy the court may, on a bankruptcy petition being presented either by a creditor or by the debtor, make an order, in this Act called a receiving order, for the protection of the estate.

4. Conditions on which creditor may petition.]

(1) A creditor shall not be entitled to present a bankruptcy petition against a debtor unless—

- the debt owing by the debtor to the petitioning creditor, or if two or more creditors join in the petition, the aggregate amount of debts owing to the several petitioning creditors, amounts to fifty pounds, and
- the debt is a liquidated sum, payable either immediately or at some certain future time, and
- the act of bankruptcy on which the petition is grounded has occurred within three months before the presentation of the petition, and
- the debtor is domiciled in England, or within a year before the date of the presentation of the petition has ordinarily resided, or had a dwelling-house or place of business, in England, or (except in the case of a person domiciled in Scotland or Ireland, or a firm or partnership having its principal place of business in Scotland or Ireland) has carried on business in England, personally or by means of an agent or manager, or (except as aforesaid) is or within the said period has been a member of a firm or partnership of persons which has carried on business in England by means of a partner or partners, or an agent or manager.

nor, where a deed of arrangement has been executed, shall a creditor be entitled to present a bankruptcy petition founded on the execution of the deed or on any other act committed by the debtor in the course or for the purpose of the proceedings preliminary to the execution of the deed, in cases where he is prohibited from so doing by the law for the time being in force relating to deeds of arrangement.

(2) If the petitioning creditor is a secured creditor, he must in his petition either state that he is willing to give up his security for the benefit of the creditors in the event of the debtor being adjudged bankrupt, or give an estimate of the value of his security. In the latter case, he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him, after deducting the value so estimated, in the same manner as if he were an unsecured creditor.

5. *Proceedings and order on creditor's petition.* (1) A creditor's petition shall be verified by affidavit of the creditor, or of some person on his behalf having knowledge of the facts, and served in the prescribed manner.

(2) At the hearing the court shall require proof of the debt of the petitioning creditor, of the service of the petition, and of the act of bankruptcy, or, if more than one act of bankruptcy is alleged in the petition, of some one of the alleged acts of bankruptcy, and, if satisfied with the proof, may make a receiving order in pursuance of the petition.

(3) If the court is not satisfied with the proof of the petitioning creditor's debt, or of the act of bankruptcy, or of the service of the petition, or is satisfied by the debtor that he is able to pay his debts, or that for other sufficient cause no order ought to be made, the court may dismiss the petition.

(4) When the act of bankruptcy relied on is non-compliance with a bankruptcy notice to pay,

secure, or compound for a judgment debt, or sum ordered to be paid, the court may, if it thinks fit, stay or dismiss the petition on the ground that an appeal is pending from the judgment or order.

(5) Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that he is indebted to such an amount as would justify the petitioner in presenting a petition against him, the court, on such security (if any) being given as the court may require for payment to the petitioner of any debt which may be established against him in due course of law, and of the costs of establishing the debt, may, instead of dismissing the petition, stay all proceedings on the petition for such time as may be required for trial of the question relating to the debt.

(6) Where proceedings are stayed, the court may, if by reason of the delay caused by the stay of proceedings or for any other cause it thinks just, make a receiving order on the petition of some other creditor, and shall thereupon dismiss, on such terms as it thinks just, the petition in which proceedings have been stayed as aforesaid.

(7) A creditor's petition shall not, after presentation, be withdrawn without the leave of the court.

6. Debtor's petition and order thereon.] (1) A debtor's petition shall allege that the debtor is unable to pay his debts, and the presentation thereof shall be deemed an act of bankruptcy without the previous filing by the debtor of any declaration of inability to pay his debts, and the court shall thereupon make a receiving order.

(2) A debtor's petition shall not, after presentation, be withdrawn without the leave of the court.

7. Effect of receiving order.] (1) On the making of a receiving order an official receiver shall be thereby constituted receiver of the property of the debtor, and thereafter, except as directed by this Act, no creditor to whom the debtor is indebted in respect of any debt provable in bankruptcy shall have any remedy against the property or person of the debtor in respect of the debt, or shall commence any action or other legal proceedings, unless with the leave of the court and on such terms as the court may impose.

(2) But this section shall not affect the power of any secured creditor to realise or otherwise deal with his security in the same manner as he would have been entitled to realise or deal with it if this section had not been passed.

8. Power to appoint interim receiver.] The court may, if it is shown to be necessary for the protection of the estate, at any time after the presentation of a bankruptcy petition, and before a receiving order is made, appoint the official receiver to be interim receiver of the property of the debtor, or of any part thereof, and direct him to take immediate possession thereof or of any part thereof.

9. Power to stay pending proceedings.] (1) The court may, at any time after the presentation of a bankruptcy petition, stay any action, execution, or other legal process against the property or person of the debtor, and any court in which proceedings are pending against a debtor may, on proof that a bankruptcy petition has been presented by or against the debtor, either stay the proceedings or allow them to continue on such terms as it may think just.

(2) Where the court makes an order staying any action or proceeding, or staying proceedings generally, the order may be served by sending a copy thereof, under the seal of the court, by post to the address for service of the plaintiff or other party prosecuting such proceeding.

10. Power to appoint special manager.] (1) The official receiver of a debtor's estate may, on the application of any creditor or creditors, and if satisfied that the nature of the debtor's estate or business or the interests of the creditors generally require the appointment of a special manager of the estate or business other than the official receiver, appoint a manager thereof accordingly to act until a trustee is appointed, and with such

powers (including any of the powers of a receiver) as may be entrusted to him by the official receiver.

(2) The special manager shall give security and account in such manner as the Board of Trade may direct.

(3) The special manager shall receive such remuneration as the creditors may, by resolution at an ordinary meeting, determine, or, in default of any such resolution, as may be prescribed.

11. Advertisement of receiving order.] Notice of every receiving order, stating the name, address, and description of the debtor, the date of the order, the court by which the order is made, and the date of the petition, shall be gazetted and advertised in a local paper in the prescribed manner.

12. Power to rescind receiving order in certain cases.] If in any case where a receiving order has been made on a bankruptcy petition it appears to the court by which the order was made, upon an application by the official receiver, or any creditor or other person interested, that a majority of the creditors in number and value are resident in Scotland or in Ireland, and that from the situation of the property of the debtor, or other causes, his estate and effects ought to be distributed among the creditors under the law relating to bankruptcy in Scotland or Ireland, the court, after such inquiry as it may think fit, may rescind the receiving order and stay all proceedings on, or dismiss the petition upon such terms, if any, as the court may think fit.

Proceedings Consequent on Order.

13. First and other meetings of creditors.] (1) As soon as may be after the making of a receiving order against a debtor a general meeting of his creditors (in this Act referred to as the first meeting of creditors) shall be held for the purpose of considering whether a proposal for a composition or scheme of arrangement shall be accepted, or whether it is expedient that the debtor shall be adjudged bankrupt, and generally as to the mode of dealing with the debtor's property.

(2) With respect to the summoning of and proceedings at the first and other meetings of creditors, the rules in the First Schedule to this Act shall be observed.

14. Debtor's statement of affairs.] (1) Where a receiving order is made against a debtor, he shall make out and submit to the official receiver a statement of and in relation to his affairs in the prescribed form, verified by affidavit, and showing the particulars of the debtor's assets debts and liabilities, the names, residences and occupations of his creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the official receiver may require.

(2) The statement shall be so submitted within the following times, namely:—

(i) If the order is made on the petition of the debtor, within three days from the date of the order;

(ii) If the order is made on the petition of a creditor, within seven days from the date of the order;

but the court may, in either case for special reasons, extend the time.

(3) If the debtor fails without reasonable excuse to comply with the requirements of this section, the court may, on the application of the official receiver, or of any creditor, adjudge him bankrupt.

(4) Any person stating himself in writing to be a creditor of the bankrupt may, personally or by agent, inspect the statement at all reasonable times, and take any copy thereof or extract therefrom, but any person untruthfully so stating himself to be a creditor shall be guilty of a contempt of court, and shall be punishable accordingly on the application of the trustee or official receiver.

Public Examination of Debtor.

15. Public examination of debtor.] (1) Where the court makes a receiving order, it shall, save

as in this Act provided, hold a public sitting, on a day to be appointed by the court, for the examination of the debtor, and the debtor shall attend thereat, and shall be examined as to his conduct, dealings, and property.

(2) The examination shall be held as soon as conveniently may be after the expiration of the time for the submission of the debtor's statement of affairs.

(3) The court may adjourn the examination from time to time.

(4) Any creditor who has tendered a proof, or his representative authorised in writing, may question the debtor concerning his affairs and the causes of his failure.

(5) The official receiver shall take part in the examination of the debtor; and for the purpose thereof, if specially authorised by the Board of Trade, may employ a solicitor with or without counsel.

(6) If a trustee is appointed before the conclusion of the examination, he may take part therein.

(7) The court may put such questions to the debtor as it may think expedient.

(8) The debtor shall be examined upon oath, and it shall be his duty to answer all such questions as the court may put or allow to be put to him. Such notes of the examination as the court thinks proper shall be taken down in writing, and shall be read over either to or by the debtor and signed by him, and may thereafter, save as in this Act provided, be used in evidence against him; they shall also be open to the inspection of any creditor at all reasonable times.

(9) When the court is of opinion that the affairs of the debtor have been sufficiently investigated, it shall by order declare that his examination is concluded, but such order shall not be made until after the day appointed for the first meeting of creditors.

(10) Where the debtor is a lunatic or suffers from any such mental or physical affliction or disability as in the opinion of the court makes him unfit to attend his public examination, the court may make an order dispensing with such examination, or directing that the debtor be examined on such terms, in such manner, and at such place as to the court seems expedient.

Composition or Scheme of Arrangement.

16. Compositions and schemes of arrangement.]

(1) Where a debtor intends to make a proposal for a composition in satisfaction of his debts, or a proposal for a scheme of arrangement of his affairs, he shall, within four days of submitting his statement of affairs, or within such time thereafter as the official receiver may fix, lodge with the official receiver a proposal in writing, signed by him, embodying the terms of the composition or scheme which he is desirous of submitting for the consideration of his creditors, and setting out particulars of any sureties or securities proposed.

(2) In such case the official receiver shall hold a meeting of creditors, before the public examination of the debtor is concluded, and send to each creditor, before the meeting, a copy of the debtor's proposal with a report thereon; and if at that meeting a majority in number and three-fourths in value of all the creditors who have proved, resolve to accept the proposal, it shall be deemed to be duly accepted by the creditors, and when approved by the court shall be binding on all the creditors.

(3) The debtor may at the meeting amend the terms of his proposal, if the amendment is, in the opinion of the official receiver, calculated to benefit the general body of creditors.

(4) Any creditor who has proved his debt may assent to or dissent from the proposal by a letter, in the prescribed form, addressed to the official receiver so as to be received by him not later than the day preceding the meeting, and any such assent or dissent shall have effect as if the creditor had been present and had voted at the meeting.

(5) The debtor or the official receiver may, after the proposal is accepted by the creditors, apply to the court to approve it, and notice of the time

appointed for hearing the application shall be given to each creditor who has proved.

(6) The application shall not be heard until after the conclusion of the public examination of the debtor. Any creditor who has proved may be heard by the court in opposition to the application, notwithstanding that he may at a meeting of creditors have voted for the acceptance of the proposal.

(7) For the purpose of approving a composition or scheme by joint debtors, the court may, if it thinks fit, and on the report of the official receiver that it is expedient so to do, dispense with the public examination of one of the joint debtors if he is unavoidably prevented from attending the examination by illness or absence from the United Kingdom.

(8) The court shall, before approving the proposal, hear a report of the official receiver as to the terms thereof, and as to the conduct of the debtor, and any objections which may be made by or on behalf of any creditor.

(9) If the court is of opinion that the terms of the proposal are not reasonable, or are not calculated to benefit the general body of creditors, or in any case in which the court is required, where the debtor is adjudged bankrupt, to refuse his discharge, the court shall refuse to approve the proposal.

(10) If any facts are proved on proof of which the court would be required either to refuse, suspend or attach conditions to the debtor's discharge were he adjudged bankrupt, the court shall refuse to approve the proposal, unless it provides reasonable security for the payment of not less than five shillings in the pound on all the unsecured debts provable against the debtor's estate.

(11) In any other case the court may either approve or refuse to approve the proposal.

(12) If the court approves the proposal, the approval may be testified by the seal of the court being attached to the instrument containing the terms of the proposed composition or scheme, or by the terms being embodied in an order of the court.

(13) A composition or scheme accepted and approval may be testified by the seal of the court binding on all the creditors so far as relates to any debts due to them from the debtor and provable in bankruptcy, but shall not release the debtor from any liability under a judgment against him in an action for seduction, or under an affiliation order, or under a judgment against him as a co-respondent in a matrimonial cause, except to such an extent and under such conditions as the court expressly orders in respect of such liability.

(14) A certificate of the official receiver that a composition or scheme has been duly accepted and approved shall, in the absence of fraud, be conclusive as to its validity.

(15) The provisions of a composition or scheme under this section may be enforced by the court on application by any person interested, and any disobedience of an order of the court made on the application shall be deemed a contempt of court.

(16) If default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the court, on satisfactory evidence, that the composition or scheme cannot, in consequence of legal difficulties, or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, or that the approval of the court was obtained by fraud, the court may, if it thinks fit, on application by the official receiver or the trustee or by any creditor, adjudge the debtor bankrupt, and annul the composition or scheme, but without prejudice to the validity of any sale, disposition or payment duly made, or thing duly done, under or in pursuance of the composition or scheme.

Where a debtor is adjudged bankrupt under this subsection, any debt provable in other respects, which has been contracted before the adjudication, shall be provable in the bankruptcy.

(17) If under or in pursuance of a composition or scheme a trustee is appointed to administer the debtor's property or manage his business, or to distribute the composition, section twenty-five and Part IV. of this Act shall apply as if the trustee were a trustee in a bankruptcy, and as

if the terms "bankruptcy," "bankrupt," and "order of adjudication" included respectively a composition or scheme of arrangement, a compounding or arranging debtor, and an order approving the composition or scheme.

(18) Part II. of this Act shall, so far as the nature of the case and the terms of the composition or scheme admit, apply thereto, the same interpretation being given to the words "trustee," "bankruptcy," "bankrupt," and "order of adjudication," as in the last preceding subsection.

(19) No composition or scheme shall be approved by the court which does not provide for the payment in priority to other debts of all debts directed to be so paid in the distribution of the property of a bankrupt.

(20) The acceptance by a creditor of a composition or scheme shall not release any person who under this Act would not be released by an order of discharge if the debtor had been adjudged bankrupt.

17. *Effect of composition or scheme.* Notwithstanding the acceptance and approval of a composition or scheme, the composition or scheme shall not be binding on any creditor so far as regards a debt or liability from which, under the provisions of this Act, the debtor would not be released by an order of discharge in bankruptcy, unless the creditor assents to the composition or scheme.

Adjudication of Bankruptcy.

18. *Adjudication of bankruptcy where composition not accepted or approved.* (1) Where a receiving order is made against a debtor, then, if the creditors at the first meeting or any adjournment thereof by ordinary resolution resolve that the debtor be adjudged bankrupt, or pass no resolution, or if the creditors do not meet, or if a composition or scheme is not approved in pursuance of this Act within fourteen days after the conclusion of the examination of the debtor or such further time as the court may allow, the court shall adjudge the debtor bankrupt; and thereupon the property of the bankrupt shall become divisible among his creditors and shall vest in a trustee.

(2) Notice of every order adjudging a debtor bankrupt, stating the name, address, and description of the bankrupt, the date of the adjudication, and the court by which the adjudication is made, shall be gazetted and advertised in a local paper in the prescribed manner, and the date of the order shall, for the purposes of this Act, be the date of the adjudication.

19. *Appointment of trustee.* (1) Where a debtor is adjudged bankrupt, or the creditors have resolved that he be adjudged bankrupt, the creditors may by ordinary resolution appoint some fit person, whether a creditor or not, to fill the office of trustee of the property of the bankrupt; or they may resolve to leave his appointment to the committee of inspection hereinafter mentioned.

A person shall be deemed not fit to act as trustee of the property of a bankrupt where he has been previously removed from the office of trustee of a bankrupt's property for misconduct or neglect of duty.

(2) The person so appointed shall give security in manner prescribed to the satisfaction of the Board of Trade, and the Board, if satisfied with the security, shall certify that his appointment has been duly made, unless they object to the appointment on the ground that it has not been made in good faith by a majority in value of the creditors voting, or that the person appointed is not fit to act as trustee, or that his connexion with or relation to the bankrupt or his estate or any particular creditor makes it difficult for him to act with impartiality in the interests of the creditors generally.

(3) Provided that, where the Board make any such objection, they shall, if so requested by a majority in value of the creditors, notify the objection to the High Court, and thereupon the High Court may decide on its validity.

(4) The appointment of a trustee shall take effect as from the date of the certificate.

(5) The official receiver shall not, save as by

this Act provided, be the trustee of the bankrupt's property.

(6) If a trustee is not appointed by the creditors within four weeks from the date of the adjudication, or, in the event of there being negotiations for a composition or scheme pending at the expiration of those four weeks, then within seven days from the close of those negotiations by the refusal of the creditors to accept, or of the court to approve, the composition or scheme, the official receiver shall report the matter to the Board of Trade, and thereupon the Board of Trade shall appoint some fit person to be trustee of the bankrupt's property, and shall certify the appointment.

(7) Provided that the creditors or the committee of inspection (if so authorised by resolution of the creditors) may, at any subsequent time, if they think fit, appoint a trustee, and, on the appointment being made and certified, the person appointed shall become trustee in the place of the person appointed by the Board of Trade.

(8) When a debtor is adjudged bankrupt after the first meeting of creditors has been held, and a trustee has not been appointed prior to the adjudication, the official receiver shall forthwith summon a meeting of creditors for the purpose of appointing a trustee.

20. *Committee of inspection.* (1) The creditors qualified to vote may, at their first or any subsequent meeting by resolution, appoint a committee of inspection for the purpose of superintending the administration of the bankrupt's property by the trustee.

(2) The committee of inspection shall consist of not more than five nor less than three persons, possessing one or other of the following qualifications:—

(a) that of being a creditor or the holder of a general proxy or general power of attorney from a creditor, provided that no creditor and no holder of a general proxy or general power of attorney from a creditor shall be qualified to act as a member of the committee of inspection until the creditor has proved his debt and the proof has been admitted; or

(b) that of being a person to whom a creditor intends to give a general proxy or general power of attorney: provided that no such person shall be qualified to act as a member of the committee of inspection until he holds such a proxy or power of attorney, and until the creditor has proved his debt and the proof has been admitted.

(3) The committee of inspection shall meet at such times as they shall from time to time appoint, and, failing such appointment, at least once a month; and the trustee or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

(4) The committee may act by a majority of their members present at a meeting, but shall not act unless a majority of the committee are present at the meeting.

(5) Any member of the committee may resign his office by notice in writing signed by him, and delivered to the trustee.

(6) If a member of the committee becomes bankrupt, or compounds or arranges with his creditors, or is absent from five consecutive meetings of the committee, his office shall thereupon become vacant.

(7) Any member of the committee may be removed by an ordinary resolution at any meeting of creditors of which seven days' notice has been given stating the object of the meeting.

(8) On a vacancy occurring in the office of a member of the committee, the trustee shall forthwith summon a meeting of creditors for the purpose of filling the vacancy, and the meeting may by resolution appoint another creditor or other person eligible as above to fill the vacancy.

(9) The continuing members of the committee, provided there be not less than two such continuing members, may act notwithstanding any vacancy in their body; and, where the number of members of the committee of inspection is for the time being less than five, the creditors may increase that number so that it does not exceed five.

(10) If there be no committee of inspection, any act or thing or any direction or permission by this Act authorised or required to be done or given by the committee may be done or given by the Board of Trade on the application of the trustee.

21. Power to accept composition or scheme after bankruptcy adjudication.] (1) Where a debtor is adjudged bankrupt the creditors may, if they think fit, at any time after the adjudication, by a majority in number and three-fourths in value of all the creditors who have proved, resolve to accept a proposal for a composition in satisfaction of the debts due to them under the bankruptcy, or for a scheme of arrangement of the bankrupt's affairs; and thereupon the same proceedings shall be taken and the same consequences shall ensue as in the case of a composition or scheme accepted before adjudication.

(2) If the court approves the composition or scheme, it may make an order annulling the bankruptcy and vesting the property of the bankrupt in him or in such other person as the court may appoint, on such terms, and subject to such conditions, if any, as the court may declare.

(3) If default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the court that the composition or scheme cannot proceed without injustice or undue delay, or that the approval of the court was obtained by fraud, the court may, if it thinks fit, on application by any person interested, adjudge the debtor bankrupt, and annul the composition or scheme, but without prejudice to the validity of any sale, disposition or payment duly made, or thing duly done, under or in pursuance of the composition or scheme. Where a debtor is adjudged bankrupt under this subsection, all debts, provable in other respects, which have been contracted before the date of such adjudication shall be provable in the bankruptcy.

Control over Person and Property of Debtor.

22. Duties of debtor as to discovery and realisation of property.] (1) Every debtor against whom a receiving order is made shall, unless prevented by sickness or other sufficient cause, attend the first meeting of his creditors, and shall submit to such examination and give such information as the meeting may require.

(2) He shall give such inventory of his property, such list of his creditors and debtors, and of the debts due to and from them respectively, submit to such examination in respect of his property or his creditors, attend such other meetings of his creditors, wait at such times on the official receiver, special manager, or trustee, execute such powers of attorney, conveyances, deeds, and instruments, and generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors, as may be reasonably required by the official receiver, special manager, or trustee, or may be prescribed by general rules, or be directed by the court by any special order or orders made in reference to any particular case, or made on the occasion of any special application by the official receiver, special manager, trustee, or any creditor or person interested.

(3) He shall, if adjudged bankrupt, aid, to the utmost of his power, in the realisation of his property and the distribution of the proceeds amongst his creditors.

(4) If a debtor wilfully fails to perform the duties imposed on him by this section, or to deliver up possession of any part of his property, which is divisible amongst his creditors under this Act, and which is for the time being in his possession or under his control, to the official receiver or to the trustee, or to any person authorised by the court to take possession of it, he shall, in addition to any other punishment to which he may be subject, be guilty of a contempt of court, and may be punished accordingly.

23. Arrest of debtor under certain circumstances.] (1) The court may, by warrant addressed to any constable or prescribed officer of the court, cause a debtor to be arrested, and any books, papers, money and goods in his possession to be seized, and him and them to be safely kept as

prescribed until such time as the court may order under the following circumstances:—

(a) If, after a bankruptcy notice has been issued under this Act, or after presentation of a bankruptcy petition by or against him, it appears to the court that there is probable reason for believing that he has absconded, or is about to abscond, with a view of avoiding payment of the debt in respect of which the bankruptcy notice was issued, or of avoiding service of a bankruptcy petition, or of avoiding appearance to any such petition, or of avoiding examination in respect of his affairs, or of otherwise avoiding delaying or embarrassing proceedings in bankruptcy against him:

(b) If, after presentation of a bankruptcy petition by or against him, it appears to the court that there is probable cause for believing that he is about to remove his goods with a view of preventing or delaying possession being taken of them by the official receiver or trustee, or that there is probable ground for believing that he has concealed or is about to conceal or destroy any of his goods, or any books, documents or writings which might be of use to his creditors in the course of his bankruptcy:

(c) If, after service of a bankruptcy petition on him, or after a receiving order is made against him, he removes any goods in his possession above the value of five pounds, without the leave of the official receiver or trustee:

(d) If, without good cause shown, he fails to attend any examination ordered by the court:

Provided that no arrest upon a bankruptcy notice shall be valid and protected, unless the debtor before or at the time of his arrest is served with such bankruptcy notice.

(2) No payment or composition made or security given after arrest made under this section shall be exempt from the provisions of this Act relating to fraudulent preferences.

24. Re-direction of debtor's letters.] Where a receiving order is made against a debtor, the court, on the application of the official receiver or trustee, may from time to time order that for such time, not exceeding three months, as the court thinks fit, post letters, telegrams, and other postal packets, addressed to the debtor at any place or places mentioned in the order for re-direction, shall be re-directed sent or delivered by the Postmaster-General, or the officers acting under him, to the official receiver, or the trustee, or otherwise as the court directs, and the same shall be done accordingly.

25. Enquiry as to debtor's conduct, dealings, and property.] (1) The court may, on the application of the official receiver or trustee, at any time after a receiving order has been made against a debtor, summon before it the debtor or his wife, or any person known or suspected to have in his possession any of the estate or effects belonging to the debtor, or supposed to be indebted to the debtor, or any person whom the court may deem capable of giving information respecting the debtor, his dealings or property, and the court may require any such person to produce any documents in his custody or power relating to the debtor, his dealings or property.

(2) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the court at the time appointed, or refuses to produce any such document, having no lawful impediment made known to the court at the time of its sitting and allowed by it, the court may, by warrant, cause him to be apprehended and brought up for examination.

(3) The court may examine on oath, either by word of mouth or by written interrogatories, any person so brought before it concerning the debtor, his dealings, or property.

(4) If any person on examination before the court admits that he is indebted to the debtor, the court may, on the application of the official

receiver or trustee, order him to pay to the official receiver or trustee, at such time and in such manner as to the court seems expedient, the amount admitted, or any part thereof, either in full discharge of the whole amount in question or not, as the court thinks fit, with or without costs of the examination.

(5) If any person on examination before the court admits that he has in his possession any property belonging to the debtor, the court may, on the application of the official receiver or trustee, order him to deliver to the official receiver or trustee such property, or any part thereof, at such time, and in such manner, and on such terms, as to the court may seem just.

(6) The court may, if it thinks fit, order that any person who if in England would be liable to be brought before it under this section shall be examined in Scotland or Ireland, or in any other place out of England.

26. Discharge of bankrupt.] (1) A bankrupt may, at any time after being adjudged bankrupt, apply to the court for an order of discharge, and the court shall appoint a day for hearing the application, but the application shall not be heard until the public examination of the bankrupt is concluded. The application shall, except when the court in accordance with rules under this Act otherwise directs, be heard in open court.

(2) On the hearing of the application the court shall take into consideration a report of the official receiver as to the bankrupt's conduct and affairs (including a report as to the bankrupt's conduct during the proceedings under his bankruptcy), and may either grant or refuse an absolute order of discharge, or suspend the operation of the order for a specified time, or grant an order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the bankrupt, or with respect to his after-acquired property:

Provided that the court shall refuse the discharge in all cases where the bankrupt has committed any misdemeanour under this Act, or any enactment repealed by this Act, or any other misdemeanour connected with his bankruptcy, or any felony connected with his bankruptcy, unless for special reasons the court otherwise determines, and shall, on proof of any of the facts hereinafter mentioned, either—

(i) refuse the discharge; or

(ii) suspend the discharge for a period of not less than two years: provided that the period may be less than two years, if the only fact proved of those hereinafter mentioned is that his assets are not of a value equal to ten shillings in the pound on the amount of his unsecured liabilities; or

(iii.) suspend the discharge until a dividend of not less than ten shillings in the pound has been paid to the creditors; or

(iv) require the bankrupt as a condition of his discharge to consent to judgment being entered against him by the official receiver or trustee for any balance or part of any balance of the debts provable under the bankruptcy which is not satisfied at the date of the discharge, such balance or part of any balance of the debts to be paid out of the future earnings or after-acquired property of the bankrupt in such manner and subject to such conditions as the court may direct; but execution shall not be issued on the judgment without leave of the court, which leave may be given on proof that the bankrupt has since his discharge acquired property or income available towards payment of his debts:

Provided that, if at any time after the expiration of two years from the date of any order made under this section the bankrupt satisfies the court that there is no reasonable probability of his being in a position to comply with the terms of such order, the court may modify the terms of the order, or of any substituted order, in such manner and upon such conditions as it may think fit.

(3) The facts hereinafter referred to are—

(a) That the bankrupt's assets are not of a

value equal to ten shillings in the pound on the amount of his unsecured liabilities, unless he satisfies the court that the fact that the assets are not of a value equal to ten shillings in the pound on the amount of his unsecured liabilities has arisen from circumstances for which he cannot justly be held responsible;

- (b) That the bankrupt has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his bankruptcy;
- (c) That the bankrupt has continued to trade after knowing himself to be insolvent;
- (d) That the bankrupt has contracted any debt provable in the bankruptcy without having at the time of contracting it any reasonable or probable ground of expectation (proof whereof shall lie on him) of being able to pay it;
- (e) That the bankrupt has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet his liabilities;
- (f) That the bankrupt has brought on, or contributed to, his bankruptcy by rash and hazardous speculations, or by unjustifiable extravagance in living, or by gambling, or by culpable neglect of his business affairs;
- (g) That the bankrupt has put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any action properly brought against him;
- (h) That the bankrupt has, within three months preceding the date of the receiving order, incurred unjustifiable expense by bringing a frivolous or vexatious action;
- (i) That the bankrupt has, within three months preceding the date of the receiving order, when unable to pay his debts as they become due, given an undue preference to any of his creditors;
- (j) That the bankrupt has within three months preceding the date of the receiving order, incurred liabilities with a view of making his assets equal to ten shillings in the pound on the amount of his unsecured liabilities;
- (k) That the bankrupt has, on any previous occasion, been adjudged bankrupt, or made a composition or arrangement with his creditors;
- (l) That the bankrupt has been guilty of any fraud or fraudulent breach of trust.

(4) With a view to removing any statutory disqualification on account of bankruptcy which is removed if the bankrupt obtains from the court his discharge with a certificate to the effect that the bankruptcy was caused by misfortune without any misconduct on his part, the court may, if it thinks fit, grant such a certificate, but a refusal to grant such a certificate shall be subject to appeal.

(5) For the purposes of this section, a bankrupt's assets shall be deemed of a value equal to ten shillings in the pound on the amount of his unsecured liabilities when the court is satisfied that the property of the bankrupt has realised, or is likely to realise, or with due care in realisation might have realised, an amount equal to ten shillings in the pound on the amount of his unsecured liabilities, and a report by the official receiver or the trustee shall be prima facie evidence of the amount of such liabilities.

(6) For the purposes of this section, the report of the official receiver shall be prima facie evidence of the statements therein contained.

(7) Notice of the appointment by the court of the day for hearing the application for discharge shall be published in the prescribed manner, and sent fourteen days at least before the day so appointed to each creditor who has proved, and the court may hear the official receiver and the trustee, and may also hear any creditor. At the hearing the court may put such questions to the

debtor and receive such evidence as it may think fit.

(8) The powers of suspending and of attaching conditions to a bankrupt's discharge may be exercised concurrently.

(9) A discharged bankrupt shall, notwithstanding his discharge, give such assistance as the trustee may require in the realisation and distribution of such of his property as is vested in the trustee, and, if he fails to do so, he shall be guilty of a contempt of court; and the court may also, if it thinks fit, revoke his discharge, but without prejudice to the validity of any sale, disposition or payment duly made or thing duly done subsequent to the discharge but before its revocation.

27. Fraudulent settlements.] In either of the following cases; that is to say—

- (i) in the case of a settlement made before and in consideration of marriage where the settlor is not at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement; or
- (ii) in the case of any covenant or contract made in consideration of marriage for the future settlement on or for the settlor's wife or children of any money or property wherein he had not at the date of his marriage any estate or interest (not being money or property of or in right of his wife);

if the settlor is adjudged bankrupt or compounds or arranges with his creditors, and it appears to the court that such settlement, covenant, or contract was made in order to defeat or delay creditors, or was unjustifiable having regard to the state of the settlor's affairs at the time when it was made, the court may refuse or suspend an order of discharge, or grant an order subject to conditions, or refuse to approve a composition or arrangement, as the case may be, in like manner as in cases where the debtor has been guilty of fraud.

28. Effect of order of discharge.] (1) An order of discharge shall not release the bankrupt—

- (a) from any debt on a recognisance, nor from any debt with which the bankrupt may be chargeable at the suit of the Crown or of any person for any offence against a statute relating to any branch of the public revenue, or at the suit of the sheriff or other public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence; and he shall not be discharged from such excepted debts unless the Treasury certify in writing their consent to his being discharged therefrom; or
- (b) from any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party, nor from any debt or liability whereof he has obtained forbearance by any fraud to which he was a party; or
- (c) from any liability under a judgment against him in an action for seduction, or under an affiliation order, or under a judgment against him as a co-respondent in a matrimonial cause, except to such an extent and under such conditions as the court expressly orders in respect of such liability.

(2) An order of discharge shall release the bankrupt from all other debts provable in bankruptcy.

(3) An order of discharge shall be conclusive evidence of the bankruptcy, and of the validity of the proceedings therein, and in any proceedings that may be instituted against a bankrupt who has obtained an order of discharge in respect of any debt from which he is released by the order, the bankrupt may plead that the cause of action occurred before his discharge.

(4) An order of discharge shall not release any person who at the date of the receiving order was a partner or co-trustee with the bankrupt, or was jointly bound or had made any joint contract with him, or any person who was surety or in the nature of a surety for him.

29. Power for court to annul adjudication in certain cases.] (1) Where in the opinion of the court a debtor ought not to have been adjudged bankrupt, or where it is proved to the satisfaction of the court that the debts of the bankrupt are paid in full, the court may, on the application of any person interested, by order annul the adjudication.

(2) Where an adjudication is annulled under this section, all sales and dispositions of property and payments duly made, and all acts theretofore done, by the official receiver, trustee, or other person acting under their authority, or by the court, shall be valid, but the property of the debtor who was adjudged bankrupt shall vest in such person as the court may appoint, or, in default of any such appointment, revert to the debtor for all his estate or interest therein on such terms and subject to such conditions, if any, as the court may declare by order.

(3) Notice of the order annulling an adjudication shall be forthwith gazetted and published in a local paper.

(4) For the purposes of this section, any debt disputed by a debtor shall be considered as paid in full if the debtor enters into a bond, in such sum and with such sureties as the court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning the debt, with costs, and any debt due to a creditor who cannot be found or cannot be identified shall be considered as paid in full if paid into court.

PART II.

ADMINISTRATION OF PROPERTY.

Proof of Debts.

30. Description of debts provable in bankruptcy.] (1) Demands in the nature of unliquidated damages arising otherwise than by reason of a contract, promise, or breach of trust shall not be provable in bankruptcy.

(2) A person having notice of any act of bankruptcy available against the debtor shall not prove under the order for any debt or liability contracted by the debtor subsequently to the date of his so having notice.

(3) Save as aforesaid, all debts and liabilities, present or future, certain or contingent, to which the debtor is subject at the date of the receiving order, or to which he may become subject before his discharge by reason of any obligation incurred before the date of the receiving order, shall be deemed to be debts provable in bankruptcy.

(4) An estimate shall be made by the trustee of the value of any debt or liability provable as aforesaid, which by reason of its being subject to any contingency or contingencies, or for any other reason, does not bear a certain value.

(5) Any person aggrieved by any estimate made by the trustee as aforesaid may appeal to the court.

(6) If, in the opinion of the court, the value of the debt or liability is incapable of being fairly estimated, the court may make an order to that effect, and thereupon the debt or liability shall, for the purposes of this Act, be deemed to be a debt not provable in bankruptcy.

(7) If, in the opinion of the court, the value of the debt or liability is capable of being fairly estimated, the court may direct the value to be assessed before the court itself without the intervention of a jury, and may give all necessary directions for this purpose, and the amount of the value when assessed shall be deemed to be a debt provable in bankruptcy.

(8) "Liability" shall, for the purposes of this Act, include—

- (a) any compensation for work or labour done;
- (b) any obligation or possibility of an obligation to pay money or money's worth on the breach of any express or implied covenant, contract, agreement, or undertaking, whether the breach does or does not occur, or is or is not likely to occur or capable of occurring, before the discharge of the debtor;
- (c) generally, any express or implied engagement, agreement, or undertaking, to

pay, or capable of resulting in the payment of, money or money's worth; whether the payment is, as respects amount, fixed or unliquidated; as respects time, present or future, certain or dependent on any one contingency or on two or more contingencies; as to mode of valuation, capable of being ascertained by fixed rules or as matter of opinion.

31. Mutual credit and set-off.] Where there have been mutual credits, mutual debts or other mutual dealings, between a debtor against whom a receiving order shall be made under this Act and any other person proving or claiming to prove a debt under the receiving order, an account shall be taken of what is due from the one party to the other in respect of such mutual dealings, and the sum due from the one party shall be set off against any sum due from the other party, and the balance of the account, and no more, shall be claimed or paid on either side respectively; but a person shall not be entitled under this section to claim the benefit of any set-off against the property of a debtor in any case where he had, at the time of giving credit to the debtor, notice of an act of bankruptcy committed by the debtor and available against him.

32. Rules as to proof of debts.] With respect to the mode of proving debts, the right of proof by secured and other creditors, the admission and rejection of proofs, and the other matters referred to in the Second Schedule to this Act, the rules in that schedule shall be observed.

33. Priority of debts.] (1) In the distribution of the property of a bankrupt there shall be paid in priority to all other debts—

- (a) All parochial or other local rates due from the bankrupt at the date of the receiving order, and having become due and payable within twelve months next before that time, and all assessed taxes, land tax, property or income tax, assessed on the bankrupt up to the fifth day of April next before the date of the receiving order, and not exceeding in the whole one year's assessment;
- (b) All wages or salary of any clerk or servant in respect of services rendered to the bankrupt during four months before the date of the receiving order, not exceeding fifty pounds;
- (c) All wages of any labourer or workman not exceeding twenty-five pounds, whether payable for time or for piece work, in respect of services rendered to the bankrupt during two months before the date of the receiving order: Provided that, where any labourer in husbandry has entered into a contract for the payment of a portion of his wages in a lump sum at the end of the year of hiring, the priority under this section shall extend to the whole of such sum, or a part thereof, as the court may decide to be due under the contract, proportionate to the time of service up to the date of the receiving order;
- (d) All amounts, not exceeding in any individual case one hundred pounds, due in respect of compensation under the Workmen's Compensation Act, 1906 [6 Edw. 7, c. 58], the liability whereof accrued before the date of the receiving order, subject nevertheless to the provisions of section five of that Act; and
- (e) All contributions payable under the National Insurance Act, 1911 [1 & 2 Geo. 5, c. 55], by the bankrupt, in respect of employed contributors or workmen in an insured trade during four months before the date of the receiving order.

(3) The foregoing debts shall rank equally between themselves and shall be paid in full, unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves.

(3) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the foregoing debts shall be discharged forthwith so far as the property of the debtor is sufficient to meet them.

(4) In the event of a landlord or other person distraining or having distrained on any goods or effects of a bankrupt within three months next before the date of the receiving order the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof:

Provided that in respect of any money paid under any such charge the landlord or other person shall have the same rights of priority as the person to whom such payment is made.

(5) This section shall apply, in the case of a deceased person who dies insolvent, as if he were a bankrupt, and as if the date of his death were substituted for the date of the receiving order.

(6) In the case of partners the joint estate shall be applicable in the first instance in payment of their joint debts, and the separate estate of each partner shall be applicable in the first instance in payment of his separate debts. If there is a surplus of the separate estates, it shall be dealt with as part of the joint estate. If there is a surplus of the joint estate, it shall be dealt with as part of the respective separate estates in proportion to the right and interest of each partner in the joint estate.

(7) Subject to the provisions of this Act, all debts proved in the bankruptcy shall be paid *pari passu*.

(8) If there is any surplus after payment of the foregoing debts, it shall be applied in payment of interest from the date of the receiving order at the rate of four pounds per centum per annum on all debts proved in the bankruptcy.

(9) Nothing in this section shall alter the effect of section three of the Partnership Act, 1890 [53 & 54 Vict. c. 39], or shall prejudice the provisions of the Friendly Societies Act, 1896 [59 & 60 Vict. c. 25], or of section fourteen of the Trustee Savings Banks Act, 1853 [26 & 27 Vict. c. 37], or the provisions of any enactment relating to deeds of arrangement respecting the payment of expenses incurred by the trustee under a deed of arrangement which has been avoided by the bankruptcy of the debtor.

34. Preferential claim in case of apprenticeship.] (1) Where at the time of the presentation of the bankruptcy petition any person is apprenticed or is an articulated clerk to the bankrupt, the adjudication of bankruptcy shall, if either the bankrupt or apprentice or clerk gives notice in writing to the trustee to that effect, be a complete discharge of the indenture of apprenticeship or articles of agreement; and, if any money has been paid by or on behalf of the apprentice or clerk to the bankrupt as a fee, the trustee may, on the application of the apprentice or clerk, or of some person on his behalf, pay such sum as the trustee, subject to an appeal to the court, thinks reasonable, out of the bankrupt's property, to or for the use of the apprentice or clerk, regard being had to the amount paid by him or on his behalf, and to the time during which he served with the bankrupt under the indenture or articles before the commencement of the bankruptcy, and to the other circumstances of the case.

(2) Where it appears expedient to a trustee, he may, on the application of any apprentice or articulated clerk to the bankrupt, or any person acting on behalf of such apprentice or articulated clerk, instead of acting under the preceding provisions of this section, transfer the indenture of apprenticeship or articles of agreement to some other person.

35. Landlord's power of distress in case of bankruptcy.] (1) The landlord or other person to whom any rent is due from the bankrupt may at any time, either before or after the commencement of the bankruptcy, distrain upon the goods or effects of the bankrupt for the rent due to him from the bankrupt, with this limitation, that, if such distress for rent be levied after the commencement of the bankruptcy, it shall be available only for six months' rent accrued due prior

to the date of the order of adjudication and shall not be available for rent payable in respect of any period subsequent to the date when the distress was levied, but the landlord or other person to whom the rent may be due from the bankrupt may prove under the bankruptcy for the surplus due for which the distress may not have been available.

(2) Where any goods of a debtor have been taken in execution, the limit on the amount of rent which the party at whose suit the execution is sued out is liable to pay to the landlord under section one of the Landlord and Tenant Act, 1709 [8 Anne, c. 18], or which the landlord is entitled to be paid under section one hundred and sixty of the County Courts Act, 1888 [51 & 52 Vict. c. 43], shall, unless notice of claim for rent due has been served on the sheriff or bailiff or other officer levying the execution by or on behalf of the landlord before the commencement of the debtor's bankruptcy, be six months' rent, instead of one year's rent, and the rights of the landlord under the said provisions shall not extend to any claim for rent payable in respect of any period subsequent to the date of such notice unless such notice was served as aforesaid before the commencement of the debtor's bankruptcy.

(3) Nothing in the last preceding subsection shall be construed as imposing any liability on the sheriff, bailiff or other officer levying the execution, or on the person at whose suit the execution was sued out, to account for any sum actually paid to the landlord by him before notice was served on him that a receiving order had been made against the debtor, but the landlord shall be liable to pay to the trustee in the bankruptcy any sum he may have received from such sheriff, bailiff, officer or person as aforesaid in excess of the amount which he was entitled to be paid, without prejudice, however, to the right of the landlord to prove for the amount of such excess.

36. Postponement of husband's and wife's claims.] (1) Where a married woman has been adjudged bankrupt, her husband shall not be entitled to claim any dividend as a creditor in respect of any money or other estate lent or entrusted by him to his wife for the purposes of her trade or business until all claims of the other creditors of his wife for valuable consideration in money or money's worth have been satisfied.

(2) Where the husband of a married woman has been adjudged bankrupt, any money or other estate of such woman lent or entrusted by her to her husband for the purpose of any trade or business carried on by him or otherwise, shall be treated as assets of his estate, and the wife shall not be entitled to claim any dividend as a creditor in respect of any such money or other estate until all claims of the other creditors of her husband for valuable consideration in money or money's worth have been satisfied.

Property available for Payment of Debts.

37. Relation back of trustee's title.] (1) The bankruptcy of a debtor, whether it takes place on the debtor's own petition or upon that of a creditor or creditors, shall be deemed to have relation back to, and to commence at, the time of the act of bankruptcy being committed on which a receiving order is made against him, or, if the bankruptcy is proved to have committed more acts of bankruptcy than one, to have relation back to, and to commence at, the time of the first of the acts of bankruptcy proved to have been committed by the bankrupt within three months next preceding the date of the presentation of the bankruptcy petition; but no bankruptcy petition, receiving order or adjudication shall be rendered invalid by reason of any act of bankruptcy anterior to the debt of the petitioning creditor.

(2) Where a receiving order is made against a judgment debtor in pursuance of section one hundred and seven of this Act, the bankruptcy of the debtor shall be deemed to have relation back to, and to commence at, the time of the order, or if the bankrupt is proved to have committed any previous act of bankruptcy, then to have relation back to, and to commence at, the

time of the first of the acts of bankruptcy proved to have been committed by the debtor within three months next preceding the date of the order.

38. Description of bankrupt's property divisible amongst creditors.] The property of the bankrupt divisible amongst his creditors, and in this Act referred to as the property of the bankrupt, shall not comprise the following particulars:—

- (1) Property held by the bankrupt on trust for any other person;
- (2) The tools (if any) of his trade and the necessary wearing apparel and bedding of himself, his wife and children, to a value, inclusive of tools and apparel and bedding, not exceeding twenty pounds in the whole;

But it shall comprise the following particulars:—

- (a) All such property as may belong to or be vested in the bankrupt at the commencement of the bankruptcy, or may be acquired by or devolve on him before his discharge; and
- (b) The capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the bankrupt for his own benefit at the commencement of his bankruptcy or before his discharge, except the right of nomination to a vacant ecclesiastical benefice; and
- (c) All goods being, at the commencement of the bankruptcy, in the possession, order or disposition of the bankrupt, in his trade or business, by the consent and permission of the true owner, under such circumstances that he is the reputed owner thereof; provided that things in action other than debts due or growing due to the bankrupt in the course of his trade or business shall not be deemed goods within the meaning of this section.

39. Provisions as to second bankruptcy.] (1) In the event of a second or subsequent receiving order being made against a bankrupt, any property acquired by him since he was last adjudged bankrupt, which at the date when the subsequent petition was presented had not been distributed amongst the creditors in such last preceding bankruptcy, shall (subject to any disposition thereof made by the official receiver or trustee in that bankruptcy, without knowledge of the presentation of the subsequent petition, and subject to the provisions of section forty-seven of this Act) vest in the trustee in the subsequent bankruptcy, but any unsatisfied balance of the debts provable under the last preceding bankruptcy may be proved in the subsequent bankruptcy by the trustee in the last preceding bankruptcy.

(2) Where the trustee in any bankruptcy receives notice of a subsequent petition in bankruptcy against the bankrupt, he shall hold any property then in his possession which has been acquired by the bankrupt since he was adjudged bankrupt until the subsequent petition has been disposed of, and, if, on the subsequent petition an order of adjudication is made, he shall transfer all such property or the proceeds thereof (after deducting his costs and expenses) to the trustee in the subsequent bankruptcy.

Effect of Bankruptcy on antecedent and other Transactions.

40. Restriction of rights of creditor under execution or attachment.] (1) Where a creditor has issued execution against the goods or lands of a debtor, or has attached any debt due to him, he shall not be entitled to retain the benefit of the execution or attachment against the trustee in bankruptcy of the debtor, unless he has completed the execution or attachment before the date of the receiving order, and before notice of the presentation of any bankruptcy petition by or against the debtor, or of the com-

mission of any available act of bankruptcy by the debtor.

(2) For the purposes of this Act, an execution against goods is completed by seizure and sale; an attachment of a debt is completed by receipt of the debt; and an execution against land is completed by seizure, and, in the case of an equitable interest, by the appointment of a receiver.

(3) An execution levied by seizure and sale on the goods of a debtor is not invalid by reason only of its being an act of bankruptcy, and a person who purchases the goods in good faith under a sale by the sheriff shall, in all cases, acquire a good title to them against the trustee in bankruptcy.

41. Duties of sheriff as to goods taken in execution.] (1) Where any goods of a debtor are taken in execution, and before the sale thereof, or the completion of the execution by the receipt or recovery of the full amount of the levy, notice is served on the sheriff that a receiving order has been made against the debtor, the sheriff shall, on request, deliver the goods and any money seized or received in part satisfaction of the execution to the official receiver, but the costs of the execution shall be a first charge on the goods or money so delivered, and the official receiver or trustee may sell the goods, or an adequate part thereof, for the purpose of satisfying the charge.

(2) Where, under an execution in respect of a judgment for a sum exceeding twenty pounds, the goods of a debtor are sold or money is paid in order to avoid sale, the sheriff shall deduct his costs of the execution from the proceeds of sale or the money paid, and retain the balance for fourteen days, and, if within that time notice is served on him of a bankruptcy petition having been presented by or against the debtor, and a receiving order is made against the debtor thereon or on any other petition of which the sheriff has notice, the sheriff shall pay the balance to the official receiver or, as the case may be, to the trustee, who shall be entitled to retain it as against the execution creditor.

42. Avoidance of certain settlements.] (1) Any settlement of property, not being a settlement made before and in consideration of marriage, or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration, or a settlement made on or for the wife or children of the settlor of property which has accrued to the settlor after marriage in right of his wife, shall, if the settlor becomes bankrupt within two years after the date of the settlement, be void against the trustee in the bankruptcy, and shall, if the settlor becomes bankrupt at any subsequent time within ten years after the date of the settlement be void against the trustee in the bankruptcy, unless the parties claiming under the settlement can prove that the settlor was, at the time of making the settlement, able to pay all his debts without the aid of the property comprised in the settlement, and that the interest of the settlor in such property passed to the trustee of such settlement on the execution thereof.

(2) Any covenant or contract made by any person (hereinafter called the settlor) in consideration of his or her marriage, either for the future payment of money for the benefit of the settlor's wife or husband, or children, or for the future settlement on or for the settlor's wife or husband or children, of property, wherein the settlor had not at the date of the marriage any estate or interest, whether vested or contingent, in possession or remainder, and not being money or property in right of the settlor's wife or husband, shall, if the settlor is adjudged bankrupt and the covenant or contract has not been executed at the date of the commencement of his bankruptcy, be void against the trustee in the bankruptcy, except so far as it enables the persons entitled under the covenant or contract to claim for dividend in the settlor's bankruptcy under or in respect of the covenant or contract, but any such claim to dividend shall be postponed until all claims of the other creditors for valuable consideration in money or money's worth have been satisfied.

(3) Any payment of money (not being payment of premiums on a policy of life assurance) or any transfer of property made by the settlor in pursuance of such a covenant or contract as aforesaid shall be void against the trustee in the settlor's bankruptcy, unless the persons to whom the payment or transfer was made prove either—

- (a) that the payment or transfer was made more than two years before the date of the commencement of the bankruptcy; or
- (b) that at the date of the payment or transfer the settlor was able to pay all his debts without the aid of the money so paid or the property so transferred; or
- (c) that the payment or transfer was made in pursuance of a covenant or contract to pay or transfer money or property expected to come to the settlor from or on the death of a particular person named in the covenant or contract and was made within three months after the money or property came into the possession or under the control of the settlor;

but, in the event of any such payment or transfer being declared void, the persons to whom it was made shall be entitled to claim for dividend under or in respect of the covenant or contract in like manner as if it had not been executed at the commencement of the bankruptcy.

(4) "Settlement" shall, for the purposes of this section, include any conveyance or transfer of property.

43. Avoidance of general assignments of book debts unless registered.] (1) Where a person engaged in any trade or business makes an assignment to any other person of his existing or future book debts or any class thereof, and is subsequently adjudicated bankrupt, the assignment shall be void against the trustee as regards any book debts which have not been paid at the commencement of the bankruptcy, unless the assignment has been registered as if the assignment were a bill of sale given otherwise than by way of security for the payment of a sum of money, and the provisions of the Bills of Sale Act, 1878 [41 & 42 Vict. c. 31], with respect to the registration of bills of sale shall apply accordingly, subject to such necessary modifications as may be made by rules under that Act:

Provided that nothing in this section shall have effect so as to render void any assignment of book debts due at the date of the assignment from specified debtors, or of debts growing due under specified contracts, or any assignment of book debts included in a transfer of a business made bona fide and for value, or in any assignment of assets for the benefit of creditors generally.

(2) For the purposes of this section, "assignment" includes assignment by way of security and other charges on book debts.

44. Avoidance of preference in certain cases.]

(1) Every conveyance or transfer of property, or charge thereon made, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own money in favour of any creditor, or of any person in trust for any creditor, with a view of giving such creditor, or any surety or guarantor for the debt due to such creditor, a preference over the other creditors, shall, if the person making, taking, paying or suffering the same is adjudged bankrupt on a bankruptcy petition presented within three months after the date of making, taking, paying or suffering the same, be deemed fraudulent and void as against the trustee in the bankruptcy.

(2) This section shall not affect the rights of any person making title in good faith and for valuable consideration through or under a creditor of the bankrupt.

(3) Where a receiving order is made against a judgment debtor in pursuance of section one hundred and eight of this Act, this section shall apply as if the debtor had been adjudged bankrupt on a bankruptcy petition presented at the date of the receiving order.

45. Protection of bona fide transactions without notice.] Subject to the foregoing provisions of this Act with respect to the effect of bankruptcy on an execution or attachment, and with respect to the avoidance of certain settlements, assignments and preferences, nothing in this Act shall invalidate, in the case of a bankruptcy—

- (a) Any payment by the bankrupt to any of his creditors;
- (b) Any payment or delivery to the bankrupt;
- (c) Any conveyance or assignment by the bankrupt for valuable consideration;
- (d) Any contract, dealing, or transaction by or with the bankrupt for valuable consideration.

Provided that both the following conditions are complied with, namely—

- (i) that the payment, delivery, conveyance, assignment, contract, dealing, or transaction, as the case may be, takes place before the date of the receiving order; and
- (ii) that the person (other than the debtor) to, by, or with whom the payment, delivery, conveyance, assignment, contract, dealing, or transaction was made, executed, or entered into, has not at the time of the payment, delivery, conveyance, assignment, contract, dealing, or transaction, notice of any available act of bankruptcy committed by the bankrupt before that time.

46. Validity of certain payments to bankrupt and assignee.] A payment of money or delivery of property to a person subsequently adjudged bankrupt, or to a person claiming by assignment from him, shall, notwithstanding anything in this Act, be a good discharge to the person paying the money or delivering the property, if the payment or delivery is made before the actual date on which the receiving order is made and without notice of the presentation of a bankruptcy petition, and is either pursuant to the ordinary course of business or otherwise bona fide.

47. Dealings with undischarged bankrupt.] (1) All transactions by a bankrupt with any person dealing with him bona fide and for value, in respect of property, whether real or personal, acquired by the bankrupt after the adjudication, shall, if completed before any intervention by the trustee, be valid against the trustee, and any estate or interest in such property which by virtue of this Act is vested in the trustee shall determine and pass in such manner and to such extent as may be required for giving effect to any such transaction.

This subsection shall apply to transactions with respect to real property completed before the first day of April, nineteen hundred and fourteen, in any case where there has not been any intervention by the trustee before that date.

For the purposes of this subsection, the receipt of any money, security, or negotiable instrument from, or by the order or direction of, a bankrupt by his banker, and any payment and any delivery of any security or negotiable instrument made to, or by the order or direction of, a bankrupt by his banker, shall be deemed to be a transaction by the bankrupt with such banker dealing with him for value.

(2) Where a banker has ascertained that a person having an account with him is an undischarged bankrupt, then, unless the banker is satisfied that the account is on behalf of some other person, it shall be his duty forthwith to inform the trustee in the bankruptcy or the Board of Trade of the existence of the account, and thereafter he shall not make any payments out of the account, except under an order of the court or in accordance with instructions from the trustee in the bankruptcy, unless by the expiration of one month from the date of giving the information no instructions have been received from the trustee.

Realisation of Property.

48. Possession of property by trustee.] (1) The trustee shall, as soon as may be, take possession of the deeds, books, and documents of the bankrupt,

and all other parts of his property capable of manual delivery.

(2) The trustee shall, in relation to and for the purpose of acquiring or retaining possession of the property of the bankrupt, be in the same position as if he were a receiver of the property appointed by the High Court, and the court may, on his application, enforce such acquisition or retention accordingly.

(3) Where any part of the property of the bankrupt consists of stock, shares in ships, shares, or any other property transferable in the books of any company, office, or person, the trustee may exercise the right to transfer the property to the same extent as the bankrupt might have exercised it if he had not become bankrupt.

(4) Where any part of the property of the bankrupt is of copyhold or customary tenure, or is any like property passing by surrender and admittance or in any similar manner, the trustee shall not be compellable to be admitted to the property, but may deal with it in the same manner as if it had been capable of being and had been duly surrendered or otherwise conveyed to such uses as the trustee may appoint; and any appointee of the trustee shall be admitted to or otherwise invested with the property accordingly.

(5) Where any part of the property of the bankrupt consists of things in action, such things shall be deemed to have been duly assigned to the trustee.

(6) Subject to the provisions of this Act with respect to property acquired by a bankrupt after adjudication, any treasurer or other officer, or any banker, attorney, or agent of a bankrupt, shall pay and deliver to the trustee all money and securities in his possession or power, as such officer, banker, attorney, or agent, which he is not by law entitled to retain as against the bankrupt or the trustee. If he does not, he shall be guilty of a contempt of court, and may be punished accordingly on the application of the trustee.

49. Seizure of property of bankrupt.] Any person acting under warrant of the court may seize any part of the property of a bankrupt, or of a debtor against whom a receiving order has been made, in the custody or possession of the bankrupt or the debtor, or of any other person, and with a view to such seizure may break open any house, building, or room of the bankrupt or the debtor, where the bankrupt or the debtor is supposed to be, or any building or receptacle of the bankrupt or the debtor where any of his property is supposed to be; and where the court is satisfied that there is reason to believe that property of a bankrupt, or of a debtor against whom a receiving order has been made, is concealed in a house or place not belonging to him, the court may, if it thinks fit, grant a search warrant to any constable or officer of the court, who may execute it according to its tenor.

50. Sequestration of ecclesiastical benefice.] (1) Where a bankrupt is a beneficed clergyman, the trustee may apply for a sequestration of the profits of the benefice, and the certificate of the appointment of the trustee shall be sufficient authority for the granting of a sequestration without any writ or other proceeding, and the same shall accordingly be issued as on a writ of *levari facias* founded on a judgment against the bankrupt, and shall have priority over any other sequestration issued after the commencement of the bankruptcy in respect of a debt provable in the bankruptcy, except a sequestration issued before the date of the receiving order by or on behalf of a person who at the time of the issue thereof had not notice of an available act of bankruptcy committed by the bankrupt.

(2) The bishop of the diocese in which the benefice is situate may, if he thinks fit, appoint to the bankrupt such or the like stipend as he might by law have appointed to a curate duly licensed to serve the benefice in case the bankrupt had been non-resident, and the sequestrator shall pay the sum so appointed out of the profits of the benefice to the bankrupt by quarterly instalments while he performs the duties of the benefice.

(3) The sequestrator shall also pay out of the profits of the benefice the salary payable to any

duly licensed curate of the church of the benefice in respect of duties performed by him as such during four months before the date of the receiving order, not exceeding fifty pounds.

(4) Nothing in this section shall prejudice the operation of the Ecclesiastical Dilapidations Act, 1871 [34 & 35 Vict. c. 43], the Sequestration Act, 1871 [34 & 35 Vict. c. 45], or the Benefices Act, 1896 [61 & 62 Vict. c. 48], or any mortgage or charge duly created under any Act of Parliament before the commencement of the bankruptcy on the profits of the benefice.

51. Appropriation of portion of pay or salary to creditors.] (1) Where a bankrupt is an officer of the army or navy, or an officer or clerk or otherwise employed or engaged in the civil service of the Crown, the trustee shall receive for distribution amongst the creditors so much of the bankrupt's pay or salary as the court, on the application of the trustee, with the consent of the chief officer of the department under which the pay or salary is enjoyed, may direct. Before making any order under this subsection, the court shall communicate with the chief officer of the department as to the amount, time, and manner of the payment to the trustee, and shall obtain the written consent of the chief officer to the terms of such payment.

(2) Where a bankrupt is in receipt of a salary or income other than as aforesaid, or is entitled to any half-pay, or pension, or to any compensation granted by the Treasury, the court, on the application of the trustee, shall from time to time make such order as it thinks just for the payment of the salary, income, half-pay, pension, or compensation, or of any part thereof, to the trustee, to be applied by him in such manner as the court may direct.

(3) Nothing in this section shall take away or abridge any power of the chief officer of any public department to dismiss a bankrupt, or to declare the pension, half-pay, or compensation of any bankrupt to be forfeited.

52. Appropriation of income of property restrained from anticipation.] Where a married woman who has been adjudged bankrupt has separate property the income of which is subject to a restraint on anticipation, the court shall have power, on the application of the trustee, to order that during such time as the court may order, the whole or some part of such income be paid to the trustee for distribution amongst the creditors, and in the exercise of such power the court shall have regard to the means of subsistence available for the woman and her children.

53. Vesting and transfer of property.] (1) Until a trustee is appointed, the official receiver shall be the trustee for the purposes of this Act, and, immediately on a debtor being adjudged bankrupt, the property of the bankrupt shall vest in the trustee.

(2) On the appointment of a trustee, the property shall forthwith pass to and vest in the trustee appointed.

(3) The property of the bankrupt shall pass from trustee to trustee, including under that term the official receiver when he fills the office of trustee, and shall vest in the trustee for the time being during his continuance in office, without any conveyance, assignment, or transfer whatever.

(4) The certificate of appointment of a trustee shall, for all purposes of any law in force in any part of the British dominions requiring registration, enrolment, or recording of conveyances or assignments of property, be deemed to be a conveyance or assignment of property, and may be registered, enrolled, and recorded accordingly.

54. Disclaimer of onerous property.] (1) Where any part of the property of the bankrupt consists of land of any tenure burdened with onerous covenants, or shares or stock in companies, or unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the trustee, notwithstanding that he has endeavoured to sell or has taken possession of the property, or exercised any act of ownership in relation thereto, but subject to

the provisions of this section, may, by writing signed by him, at any time within twelve months after the first appointment of a trustee or such extended period as may be allowed by the court, disclaim the property:

Provided that, where any such property has not come to the knowledge of the trustee within one month after such appointment, he may disclaim such property at any time within twelve months after he has become aware thereof or such extended period as may be allowed by the court.

(2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interests, and liabilities of the bankrupt and his property in or in respect of the property disclaimed, and shall also discharge the trustee from all personal liability in respect of the property disclaimed as from the date when the property vested in him, but shall not, except so far as is necessary for the purpose of releasing the bankrupt and his property and the trustee from liability, affect the rights or liabilities of any other person.

(3) A trustee shall not be entitled to disclaim a lease without the leave of the court, except in any cases which may be prescribed by general rules, and the court may, before or on granting such leave, require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such orders with respect to fixtures, tenants' improvements, and other matters arising out of the tenancy, as the court thinks just.

(4) The trustee shall not be entitled to disclaim any property in pursuance of this section in any case where an application in writing has been made to the trustee by any person interested in the property requiring him to decide whether he will disclaim or not, and the trustee has for a period of twenty-eight days after the receipt of the application, or such extended period as may be allowed by the court, declined or neglected to give notice whether he disclaims the property or not; and, in the case of a contract, if the trustee, after such application as aforesaid, does not within the said period or extended period disclaim the contract, he shall be deemed to have adopted it.

(5) The court may, on the application of any person who is, as against the trustee, entitled to the benefit or subject to the burden of a contract made with the bankrupt, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise, as to the court may seem equitable, and any damages payable under the order to any such person may be proved by him as a debt under the bankruptcy.

(6) The court may, on application by any person either claiming any interest in any disclaimed property or under any liability not discharged by this Act in respect of any disclaimed property, and on hearing such persons as it thinks fit, make an order for the vesting of the property in or delivery thereof to any person entitled thereto, or to whom it may seem just that the same should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the court thinks just: and on any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf without any conveyance or assignment for the purpose:

Provided that, where the property disclaimed is of a leasehold nature, the court shall not make a vesting order in favour of any person claiming under the bankrupt, whether as under-lessee or as mortgagee by demise, except upon the terms of making that person—

(a) subject to the same liabilities and obligations as the bankrupt was subject to under the lease in respect of the property at the date when the bankruptcy petition was filed; or

(b) if the court thinks fit, subject only to the same liabilities and obligations as if the lease had been assigned to that person at that date;

and in either event (if the case so requires) as if the lease had comprised only the property comprised in the vesting order: and any mortgagee

or under-lessee declining to accept a vesting order upon such terms shall be excluded from all interest in and security upon the property, and, if there is no person claiming under the bankrupt who is willing to accept an order upon such terms, the court shall have power to vest the bankrupt's estate and interest in the property in any person liable either personally or in a representative character, and either alone or jointly with the bankrupt to perform the lessee's covenants in the lease, freed and discharged from all estates, incumbrances, and interests created therein by the bankrupt.

(7) Where, on the release, removal, resignation, or death of a trustee in bankruptcy, an official receiver is acting as trustee, he may disclaim any property which might be disclaimed by a trustee under the foregoing provisions, notwithstanding that the time prescribed by this section for such disclaimer has expired, but such power of disclaimer shall be exercisable only within twelve months after the official receiver has become trustee in the circumstances aforesaid, or has become aware of the existence of such property, whichever period may last expire.

(8) Any person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the bankrupt to the extent of the injury, and may accordingly prove the same as a debt under the bankruptcy.

55. Powers of trustee to deal with property.] Subject to the provisions of this Act, the trustee may do all or any of the following things:—

(1) Sell all or any part of the property of the bankrupt (including the goodwill of the business, if any, and the book debts due or growing due to the bankrupt), by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels;

(2) Give receipts for any money received by him, which receipts shall effectually discharge the person paying the money from all responsibility in respect of the application thereof;

(3) Prove, rank, claim, and draw a dividend in respect of any debt due to the bankrupt;

(4) Exercise any powers, the capacity to exercise which is vested in the trustee under this Act, and execute any powers of attorney, deeds and other instruments, for the purpose of carrying into effect the provisions of this Act;

(5) Deal with any property to which the bankrupt is beneficially entitled as tenant in tail in the same manner as the bankrupt might have dealt with it; and sections fifty-six to seventy-three of the Fines and Recoveries Act, 1833 (3 & 4 Will. 4, c. 74), shall extend and apply to proceedings under this Act as if those sections were herein re-enacted and in terms made applicable to those proceedings.

56. Powers exercisable by trustee with permission of committee of inspection.] The trustee may, with the permission of the committee of inspection, do all or any of the following things:—

(1) Carry on the business of the bankrupt, so far as may be necessary for the beneficial winding up of the same;

(2) Bring, institute, or defend any action or other legal proceeding relating to the property of the bankrupt;

(3) Employ a solicitor or other agent to take any proceedings or do any business which may be sanctioned by the committee of inspection;

(4) Accept as the consideration for the sale of any property of the bankrupt a sum of money payable at a future time subject to such stipulations as to security and otherwise as the committee think fit;

(5) Mortgage or pledge any part of the property of the bankrupt for the purpose of raising money for the payment of his debts;

(6) Refer any dispute to arbitration, compro-

mise any debts, claims, and liabilities, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt, on the receipt of such sums, payable at such times, and generally on such terms as may be agreed on;

(7) Make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors, in respect of any debts provable under the bankruptcy;

(8) Make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the property of the bankrupt, made or capable of being made on the trustee by any person or by the trustee on any person;

(9) Divide in its existing form amongst the creditors, according to its estimated value, any property which from its peculiar nature or other special circumstances cannot be readily or advantageously sold.

The permission given for the purposes of this section shall not be a general permission to do all or any of the above-mentioned things, but shall only be a permission to do the particular thing or things for which permission is sought in the specified case or cases.

57. Power to allow bankrupt to manage property.] The trustee, with the permission of the committee of inspection, may appoint the bankrupt himself to superintend the management of the property of the bankrupt or of any part thereof, or to carry on the trade (if any) of the bankrupt for the benefit of his creditors, and in any other respect to aid in administering the property, in such manner and on such terms as the trustee may direct.

58. Allowance to bankrupt for maintenance or service.] The trustee may from time to time, with the permission of the committee of inspection, make such allowance as he may think just to the bankrupt out of his property for the support of the bankrupt and his family, or in consideration of his services if he is engaged in winding up his estate, but any such allowance may be reduced by the court.

59. Right of trustee to inspect goods pawned, &c.] Where any goods of a debtor against whom a receiving order has been made are held by any person by way of pledge, pawn, or other security, it shall be lawful for the official receiver or trustee, after giving notice in writing of his intention to do so, to inspect the goods, and, where such notice has been given, such person as aforesaid shall not be entitled to realise his security until he has given the trustee a reasonable opportunity of inspecting the goods and of exercising his right of redemption if he thinks fit to do so.

60. Limitation of trustee's powers in relation to copyright.] Where the property of a bankrupt comprises the copyright in any work or any interest in such copyright, and he is liable to pay to the author of the work royalties or a share of the profits in respect thereof, the trustee shall not be entitled to sell, or authorize the sale of, any copies of the work, or to perform or authorize the performance of the work, except on the terms of paying to the author such sums by way of royalty or share of the profits as would have been payable by the bankrupt, nor shall he, without the consent of the author or of the court, be entitled to assign the right or transfer the interest or to grant any interest in the right by licence, except upon terms which will secure to the author payments by way of royalty or share of the profits at a rate not less than that which the bankrupt was liable to pay.

61. Protection of official receivers and trustees from personal liability in certain cases.] Where the official receiver or trustee has seized or disposed of any goods, chattels, property, or other effects in the possession or on the premises of a

debtor against whom a receiving order has been made, without notice of any claim by any person in respect of the same, and it is thereafter made to appear that the said goods, chattels, property, or other effects were not, at the date of the receiving order, the property of the debtor, the official receiver or trustee shall not be personally liable for any loss or damage arising from such seizure or disposal sustained by any person claiming such property, nor for the costs of any proceedings taken to establish a claim thereto, unless the court is of opinion that the official receiver or trustee has been guilty of negligence in respect of the same.

Distribution of Property.

62. Declaration and distribution of dividends.]

(1) Subject to the retention of such sums as may be necessary for the costs of administration, or otherwise, the trustee shall, with all convenient speed, declare and distribute dividends amongst the creditors who have proved their debts.

(2) The first dividend, if any, shall be declared and distributed within four months after the conclusion of the first meeting of creditors, unless the trustee satisfies the committee of inspection that there is sufficient reason for postponing the declaration to a later date.

(3) Subsequent dividends shall, in the absence of sufficient reason to the contrary, be declared and distributed at intervals of not more than six months.

(4) Before declaring a dividend, the trustee shall cause notice of his intention to do so to be gazetted in the prescribed manner, and shall also send reasonable notice thereof to each creditor mentioned in the bankrupt's statement who has not proved his debt.

(5) When the trustee has declared a dividend, he shall send to each creditor who has proved a notice showing the amount of the dividend and when and how it is payable, and a statement in the prescribed form as to the particulars of the estate.

63. Joint and separate dividends.] (1) Where one partner of a firm is adjudged bankrupt, a creditor to whom the bankrupt is indebted jointly with the other partners of the firm, or any of them, shall not receive any dividend out of the separate property of the bankrupt until all the separate creditors have received the full amount of their respective debts.

(2) Where joint and separate properties are being administered, dividends of the joint and separate properties shall, unless otherwise directed by the Board of Trade on the application of any person interested, be declared together, and the expenses of and incidental to such dividends shall be fairly apportioned by the trustee between the joint and separate properties, regard being had to the work done for and the benefit received by each property.

64. Provision for creditors residing at a distance, &c.] (1) In the calculation and distribution of a dividend the trustee shall make provision for debts provable in bankruptcy appearing from the bankrupt's statements, or otherwise, to be due to persons resident in places so distant from the place where the trustee is acting that in the ordinary course of communication they have not had sufficient time to tender their proofs, or to establish them if disputed, and also for debts provable in bankruptcy the subject of claims not yet determined.

(2) He shall also make provision for any disputed proofs or claims, and for the expenses necessary for the administration of the estate or otherwise.

(3) Subject to the foregoing provisions, he shall distribute as dividend all money in hand.

65. Right of creditor who has not proved debt before declaration of a dividend.] Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid out of any money for the time being in the hands of the trustee any dividend or dividends he may have failed to receive before that money is applied to the payment of any future dividend or dividends, but he shall not be entitled to disturb the distribution of any dividend de-

clared before his debt was proved by reason that he has not participated therein.

66. Interest on debts.] (1) Where a debt has been proved, and the debt includes interest, or any pecuniary consideration in lieu of interest, such interest or consideration shall, for the purposes of dividend, be calculated at a rate not exceeding five per centum per annum, without prejudice to the right of a creditor to receive out of the estate any higher rate of interest to which he may be entitled after all the debts proved in the estate have been paid in full.

(2) In dealing with the proof of the debt, the following rules shall be observed:—

(a) Any account settled between the debtor and the creditor within three years preceding the date of the receiving order may be examined, and, if it appears that the settlement of the account forms substantially one transaction with any debt alleged to be due out of the debtor's estate (whether in the form of renewal of a loan or capitalisation of interest or ascertainment of loans or otherwise), the account may be re-opened and the whole transaction treated as one;

(b) Any payments made by the debtor to the creditor before the receiving order, whether by way of bonus or otherwise, and any sums received by the creditor before the receiving order from the realisation of any security for the debt, shall, notwithstanding any agreement to the contrary, be appropriated to principal and interest in the proportion that the principal bears to the sum payable as interest at the agreed rate;

(c) Where the debt due is secured and the security is realised after the receiving order, or the value thereof is assessed in the proof, the amount realised or assessed shall be appropriated to the satisfaction of principal and interest in the proportion that the principal bears to the sum payable as interest at the agreed rate.

67. Final dividend.] (1) When the trustee has realised all the property of the bankrupt, or so much thereof as can, in the joint opinion of himself and of the committee of inspection, be realised without needlessly protracting the trusteeship, he shall declare a final dividend, but before so doing he shall give notice in manner prescribed to the persons whose claims to be creditors have been notified to him, but not established to his satisfaction, that if they do not establish their claims to the satisfaction of the court within a time limited by the notice, he will proceed to make a final dividend, without regard to their claims.

(2) After the expiration of the time so limited, or, if the court on application by any such claimant grants him further time for establishing his claim, then on the expiration of such further time, the property of the bankrupt shall be divided among the creditors who have proved their debts, without regard to the claims of any other persons.

68. No action for dividend.] No action for a dividend shall lie against the trustee, but, if the trustee refuses to pay any dividend, the court may, if it thinks fit, order him to pay it, and also to pay out of his own money interest thereon for the time that it is withheld, and the costs of the application.

69. Right of bankrupt to surplus.] The bankrupt shall be entitled to any surplus remaining after payment in full of his creditors, with interest, as by this Act provided, and of the costs, charges, and expenses of the proceedings under the bankruptcy petition.

PART III.

OFFICIAL RECEIVERS AND STAFF OF BOARD OF TRADE.

70. Official receivers of debtors' estates.] (1) There shall continue to be official receivers of debtors' estates, who shall be appointed and removable by, and shall act under the general authority and directions of, the Board of Trade, but shall also be officers of the courts to which they are respectively attached.

(2) The number of official receivers, and the districts to be assigned to them, shall be fixed by the Board of Trade, with the concurrence of the Treasury. One person only shall be appointed for each district unless the Board of Trade, with the concurrence of the Treasury, otherwise direct; but the same person may, with the like concurrence, be appointed to act for more than one district.

(3) Where more than one official receiver is attached to the court, such one of them as is for the time being appointed by the court for any particular estate shall be the official receiver for the purposes of that estate. The court shall distribute the receiverships of the particular estates among the official receivers in the prescribed manner.

71. Deputy for official receiver.] (1) The Board of Trade may by order direct that any of its officers mentioned in the order shall be capable of discharging the duties of any official receiver during any temporary vacancy in the office, or during the temporary absence of any official receiver through illness or otherwise.

(2) The Board of Trade may, on the application of an official receiver, at any time by order nominate some fit person to be his deputy, and to act for him for such time not exceeding two months as the order may fix, and under such conditions as to remuneration and otherwise as may be prescribed.

(3) The Board of Trade may by order, for reasons to be stated therein, direct in any special case that any of its officers mentioned in the order shall be capable of discharging any portion of the duties of the official receiver for the performance of which it is, in the opinion of the Board, expedient that some person other than the official receiver be appointed, provided that no additional expense be thereby incurred.

72. Status of official receiver.] (1) The duties of the official receiver shall have relation both to the conduct of the debtor and to the administration of his estate.

(2) An official receiver may, for the purpose of affidavits verifying proofs, petitions, or other proceedings under this Act, administer oaths.

(3) All provisions in this or any other Act referring to the trustee in a bankruptcy shall, unless the context otherwise requires, or the Act otherwise provides, include the official receiver when acting as trustee.

(4) The trustee shall supply the official receiver with such information, and give him such access to and facilities for inspecting the bankrupt's books and documents, and generally shall give him such aid, as may be requisite for enabling the official receiver to perform his duties under this Act.

73. Duties of official receiver as regards the debtor's conduct.] As regards the debtor, it shall be the duty of the official receiver—

(a) To investigate the conduct of the debtor and to report to the court, stating whether there is reason to believe that the debtor has committed any act which constitutes a misdemeanour under this Act or any enactment repealed by this Act, or which would justify the court in refusing, suspending or qualifying an order for his discharge;

(b) To make such other reports concerning the conduct of the debtor as the Board of Trade may direct;

(c) To take such part as may be directed by the Board of Trade in the public examination of the debtor;

(d) To take such part and give such assistance in relation to the prosecution of any fraudulent debtor as the Board of Trade may direct.

74. Duties of official receiver as to debtor's estate.] (1) As regards the estate of a debtor, it shall be the duty of the official receiver—

(a) Pending the appointment of a trustee, to act as interim receiver of the debtor's estate, and, where a special manager is not appointed, as manager thereof;

(b) To authorise the special manager to raise

money or make advances for the purposes of the estate in any case where, in the interests of the creditors, it appears necessary so to do;

- (c) To summon and preside at the first meeting of creditors;
- (d) To issue forms of proxy for use at the meetings of creditors;
- (e) To report to the creditors as to any proposal which the debtor may have made with respect to the mode of liquidating his affairs;
- (f) To advertise the receiving order, the date of the creditors' first meeting and of the debtor's public examination, and such other matters as it may be necessary to advertise;
- (g) To act as trustee during any vacancy in the office of trustee.

(2) For the purpose of his duties as interim receiver or manager, the official receiver shall have the same powers as if he were a receiver and manager appointed by the High Court, but shall, as far as practicable, consult the wishes of the creditors with respect to the management of the debtor's property, and may for that purpose, if he thinks it advisable, summon meetings of the persons claiming to be creditors, and shall not, unless the Board of Trade otherwise order, incur any expense beyond such as is requisite for the protection of the debtor's property or the disposing of perishable goods:

Provided that, when the debtor cannot himself prepare a proper statement of affairs, the official receiver may, subject to any prescribed conditions, and at the expense of the estate, employ some person or persons to assist in the preparation of the statement of affairs.

(3) Every official receiver shall account to the Board of Trade and pay over all moneys and deal with all securities in such manner as the Board from time to time direct.

75. Power for Board of Trade to appoint officers.] The Board of Trade may, with the approval of the Treasury as to number, appoint such officers, including official receivers, clerks, and servants, as may be required by the Board for the execution of this Act, and may dismiss any such officer, clerk or servant.

PART IV.

TRUSTEES IN BANKRUPTCY.

Official Name.

76. Official name of trustee.] The official name of a trustee in bankruptcy shall be "the trustee of the property of a bankrupt" (inserting the name of the bankrupt), and by that name the trustee may, in any part of the British dominions or elsewhere, hold property of every description, make contracts, sue and be sued, enter into any engagements binding on himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office.

Appointment.

77. Power to appoint joint or successive trustees.] (1) The creditors may, if they think fit, appoint more persons than one to the office of trustee, and when more persons than one are appointed they shall declare whether any act required or authorised to be done by the trustee is to be done by all or any one or more of such persons, but all such persons are in this Act included under the term "trustee," and shall be joint tenants of the property of the bankrupt.

(2) The creditors may also appoint persons to act as trustees in succession in the event of one or more of the persons first named declining to accept the office of trustee, or failing to give security, or of the appointment of any such person not being certified by the Board of Trade.

78. Proceedings in case of vacancy in office of trustee.] (1) If a vacancy occurs in the office of a trustee, the creditors in general meeting may appoint a person to fill the vacancy, and thereupon the same proceedings shall be taken as in the case of a first appointment.

(2) The official receiver shall, on the requisition of any creditor, summon a meeting for the purpose of filling any such vacancy.

(3) If the creditors do not, within three weeks after the occurrence of a vacancy, appoint a person to fill the vacancy, the official receiver shall report the matter to the Board of Trade, and the Board may appoint a trustee; but in such case the creditors or committee of inspection shall have the same power of appointing a trustee in the place of the person so appointed by the Board of Trade as in the case of a first appointment.

(4) During any vacancy in the office of trustee the official receiver shall act as trustee.

Control over Trustee.

79. Discretionary powers of trustee and control thereof.] (1) Subject to the provisions of this Act, the trustee shall, in the administration of the property of the bankrupt and in the distribution thereof amongst his creditors, have regard to any directions that may be given by resolution of the creditors at any general meeting, or by the committee of inspection, and any directions so given by the creditors at any general meeting shall, in case of conflict, be deemed to override any directions given by the committee of inspection.

(2) The trustee may from time to time summon general meetings of the creditors for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors, by resolution, either at the meeting appointing the trustee or otherwise, may direct, and it shall be lawful for any creditor, with the concurrence of one-sixth in value of the creditors (including himself), at any time to request the trustee or official receiver to call a meeting of the creditors, and the trustee or official receiver shall call such meeting accordingly within fourteen days:

Provided that the person at whose instance the meeting is summoned shall deposit with the trustee or the official receiver, as the case may be, a sum sufficient to pay the costs of summoning the meeting, such sum to be repaid to him out of the estate if the creditors or the court so direct.

(3) The trustee may apply to the court in manner prescribed for directions in relation to any particular matter arising under the bankruptcy.

(4) Subject to the provisions of this Act, the trustee shall use his own discretion in the management of the estate and its distribution among the creditors.

80. Appeal to court against trustee.] If the bankrupt or any of the creditors, or any other person, is aggrieved by any act or decision of the trustee, he may apply to the court, and the court may confirm, reverse, or modify the act or decision complained of, and make such order in the premises as it thinks just.

81. Control of Board of Trade over trustees.]

(1) The Board of Trade shall take cognizance of the conduct of trustees, and, in the event of any trustee not faithfully performing his duties, and duly observing all the requirements imposed on him by statute, rules, or otherwise, with respect to the performance of his duties, or in the event of any complaint being made to the Board by any creditor in regard thereto, the Board shall inquire into the matter and take such action thereon as may be deemed expedient.

(2) The Board may at any time require any trustee to answer any inquiry made by them in relation to any bankruptcy in which the trustee is engaged, and may, if the Board think fit, apply to the court to examine on oath the trustee or any other person concerning the bankruptcy.

(3) The Board may also direct a local investigation to be made of the books and vouchers of the trustee.

Remuneration and Costs.

82. Remuneration of trustee.] (1) Where the creditors appoint any person to be trustee of a debtor's estate, his remuneration (if any) shall be fixed by an ordinary resolution of the creditors, or, if the creditors so resolve, by the committee of inspection, and shall be in the nature of a commission or percentage, of which one part shall be payable on the amount realised by the trustee,

after deducting any sums paid to secured creditors out of the proceeds of their securities, and the other part on the amount distributed in dividend.

(2) If one fourth in number or value of the creditors dissent from the resolution, or the bankrupt satisfies the Board of Trade that the remuneration is unnecessarily large, the Board of Trade shall fix the amount of the remuneration.

(3) The resolution shall express what expenses the remuneration is to cover, and no liability shall attach to the bankrupt's estate, or to the creditors, in respect of any expenses which the remuneration is expressed to cover.

(4) Where a trustee acts without remuneration, he shall be allowed out of the bankrupt's estate such proper expenses incurred by him in or about the proceedings of the bankruptcy as the creditors may, with the sanction of the Board of Trade, approve.

(5) A trustee shall not, under any circumstances whatever, make any arrangement for or accept from the bankrupt, or any solicitor, auctioneer, or any other person that may be employed about a bankruptcy, any gift, remuneration, or pecuniary or other consideration or benefit whatever beyond the remuneration fixed by the creditors and payable out of the estate, nor shall he make any arrangement for giving up, or give up, any part of his remuneration, either as receiver, manager, or trustee, to the bankrupt or any solicitor or other person that may be employed about a bankruptcy.

83. Allowance and taxation of costs.] (1) Where a trustee or manager receives remuneration for his services as such, no payment shall be allowed in his accounts in respect of the performance by any other person of the ordinary duties which are required by statute or rules to be performed by himself.

(2) Where the trustee is a solicitor, he may contract that the remuneration for his services as trustee shall include all professional services.

(3) All bills and charges of solicitors, managers, accountants, auctioneers, brokers, and other persons, not being trustees, shall be taxed by the prescribed officer, and no payments in respect thereof shall be allowed in the trustee's accounts without proof of such taxation having been made. The taxing master shall satisfy himself before passing such bills and charges that the employment of such solicitors and other persons, in respect of the particular matters out of which such charges arise, has been duly sanctioned. The sanction must be obtained before the employment, except in cases of urgency, and in such cases it must be shown that no undue delay took place in obtaining the sanction.

(4) Every such person shall, on request by the trustee (which request the trustee shall make a sufficient time before declaring a dividend), deliver his bill of costs or charges to the proper officer for taxation, and, if he fails to do so within seven days after receipt of the request, or such further time as the court, on application, may grant, the trustee shall declare and distribute the dividend without regard to any claim by him, and thereupon any such claim shall be forfeited as well against the trustee personally as against the estate.

Receipts, Payments, Accounts, Audit.

84. Trustee to furnish list of creditors.] The trustee or official receiver shall, whenever required by any creditor so to do, furnish and transmit to him by post a list of the creditors showing the amount of the debt due to each creditor, and shall be entitled to charge for such list the sum of threepence per folio of seventy-two words, together with the cost of the postage thereof.

85. Trustee to furnish statement of accounts.] It shall be lawful for any creditor, with the concurrence of one sixth of the creditors (including himself), at any time to call upon the trustee or official receiver to furnish and transmit to the creditors a statement of the accounts up to the date of such notice, and the trustee shall, upon receipt of such notice, furnish and transmit such statement of the accounts:

Provided that the person at whose instance the

accounts are furnished shall deposit with the trustee or official receiver, as the case may be, a sum sufficient to pay the costs of furnishing and transmitting the accounts, which sum shall be repaid to him out of the estate if the creditors or the court so direct.

86. Books to be kept by trustee.] The trustee shall keep, in manner prescribed, proper books, in which he shall from time to time cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor of the bankrupt may, subject to the control of the court, personally or by his agent, inspect any such books.

87. Annual statement of proceedings.] (1) Every trustee in a bankruptcy shall from time to time as may be prescribed, and not less than once in every year during the continuance of the bankruptcy, transmit to the Board of Trade a statement showing the proceedings in the bankruptcy up to the date of the statement, containing the prescribed particulars, and made out in the prescribed form.

(2) The Board of Trade shall cause the statements so transmitted to be examined, and shall call the trustee to account for any misfeasance, neglect, or omission, which may appear on the said statements or in his accounts or otherwise, and may require the trustee to make good any loss which the estate of the bankrupt may have sustained by the misfeasance, neglect, or omission.

88. Trustee not to pay into private account.] No trustee in a bankruptcy or under any composition or scheme of arrangement shall pay any sums received by him as trustee into his private banking account.

89. Payment of money into Bank of England.] (1) The Bankruptcy Estates Account shall continue to be kept by the Board of Trade with the Bank of England, and all moneys received by the Board of Trade in respect of proceedings under this Act shall be paid to that account.

(2) Every trustee in bankruptcy shall, in such manner and at such times as the Board of Trade with the concurrence of the Treasury direct, pay the money received by him to the Bankruptcy Estates Account at the Bank of England, and the Board of Trade shall furnish him with a certificate of receipt of the money so paid.

Provided that—

(a) if it appears to the committee of inspection that, for the purpose of carrying on the debtor's business or of obtaining advances, or because of the probable amount of the cash balance, or if the committee shall satisfy the Board of Trade that for any other reason it is for the advantage of the creditors that the trustee should have an account with a local bank, the Board of Trade shall, on the application of the committee of inspection, authorise the trustee to make his payments into and out of such local bank as the committee may select;

(b) in any bankruptcy composition or scheme of arrangement in which the official receiver is acting as trustee, or in which a trustee is acting without a committee of inspection, the Board of Trade may, if for special reasons they think fit to do so, upon the application of the official receiver or other trustee, authorise the trustee to make his payments into and out of such local bank as the Board may direct.

(3) Where the trustee opens an account in a local bank, he shall open and keep it in the name of the debtor's estate, and any interest receivable in respect of the account shall be part of the assets of the estate, and the trustee shall make his payments into and out of the local bank in the prescribed manner.

(4) Subject to any general rules relating to small bankruptcies under section one hundred and twenty-nine of this Act, where the debtor at the date of the receiving order has an account at a bank, such account shall not be withdrawn until the expiration of seven days from the day appointed for the first meeting of creditors, unless

the Board of Trade, for the safety of the account, or other sufficient cause, order the withdrawal of the account.

(5) If a trustee at any time retains for more than ten days a sum exceeding fifty pounds, or such other amount as the Board of Trade in any particular case authorise him to retain, then, unless he explains the retention to the satisfaction of the Board of Trade, he shall pay interest on the amount so retained in excess at the rate of twenty per centum per annum, and shall have no claim to remuneration, and may be removed from his office by the Board of Trade, and shall be liable to pay any expenses occasioned by reason of his default.

(6) All payments out of money standing to the credit of the Board of Trade in the Bankruptcy Estates Account shall be made by the Bank of England in the prescribed manner.

90. Investment of surplus funds.] (1) Whenever the cash balance standing to the credit of the Bankruptcy Estates Account is in excess of the amount which in the opinion of the Board of Trade is required for the time being to answer demands in respect of bankrupts' estates, the Board of Trade shall notify the same to the Treasury, and shall pay over the same or any part thereof as the Treasury may require to the Treasury, to such account as the Treasury may direct, and the Treasury may invest the said sums or any part thereof in Government securities to be placed to the credit of the said account.

(2) Whenever any part of the money so invested is, in the opinion of the Board of Trade, required to answer any demands in respect of bankrupts' estates, the Board of Trade shall notify to the Treasury the amount so required, and the Treasury shall thereupon repay to the Board of Trade such sum as may be required to the credit of the Bankruptcy Estates Account, and for that purpose may direct the sale of such part of the said securities as may be necessary.

(3) The Treasury, out of any sums so paid to them, may pay such sums as they consider necessary for defraying the expenses of providing office accommodation for any officer performing duties under this Act.

(4) If, after any sum is so expended, the Board of Trade notify to the Treasury that an amount is required to answer the demands in respect of bankrupts' estates, and the securities and moneys held by the Treasury on the account mentioned in this section are insufficient to pay the amount so required, the Treasury shall, for the purpose of meeting the deficiency, charge on and pay out of the Consolidated Fund or the growing produce thereof, the sum expended in pursuance of the last subsection, or of any corresponding enactment repealed by this Act, or such part thereof as appears to them to be required.

(5) The dividends on the investments under this section shall be paid to such account as the Treasury may direct, and regard shall be had to the amount thus derived in fixing the fees payable in respect of bankruptcy proceedings.

91. Certain receipts and fees to be applied in aid of expenditure.] The Treasury may issue to the Board of Trade in aid of the votes of Parliament, out of the receipts arising from fees, fee stamps, and dividends on investments under this Act, any sums which may be necessary to meet the charges estimated by the Board of Trade in respect of salaries and expenses under this Act.

92. Audit of trustee's accounts.] Every trustee shall, at such times as may be prescribed, but not less than twice in each year during his tenure of office, send to the Board of Trade, or as they direct, an account of his receipts and payments as such trustee.

(2) The account shall be in a prescribed form, shall be made in duplicate, and shall be verified by a statutory declaration in the prescribed form.

(3) The Board of Trade shall cause the accounts so sent to be audited, and, for the purposes of the audit, the trustee shall furnish the Board with such vouchers and information as the Board may require, and the Board may at any time require the production of and inspect any books or accounts kept by the trustee.

(4) When any such account has been audited,

one copy thereof shall be filed and kept by the Board, and the other copy shall be filed with the court, and each copy shall be open to the inspection of any creditor, or of the bankrupt, or of any person interested.

Vacation of Office by Trustee.

93. Release of trustee.] (1) When the trustee has realised all the property of the bankrupt, or so much thereof as can, in his opinion, be realised without needlessly protracting the trusteeship, and distributed a final dividend, if any, or has ceased to act by reason of a composition having been approved, or has resigned, or has been removed from his office, the Board of Trade shall, on his application, cause a report on his accounts to be prepared, and, on his complying with all the requirements of the Board, shall take into consideration the report, and any objection which may be urged by any creditor or person interested against the release of the trustee, and shall either grant or withhold the release accordingly, subject nevertheless to an appeal to the High Court.

(2) Where the release of a trustee is withheld, the court may, on the application of any creditor or person interested, make such order as it thinks just, charging the trustee with the consequences of any act or default he may have done or made contrary to his duty.

(3) An order of the Board releasing the trustee shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the bankrupt, or otherwise in relation to his conduct as trustee, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(4) The foregoing provisions of this section shall apply to an official receiver when he is, or is acting as, trustee, and when an official receiver has been released under this section, or any previous similar enactment, he shall continue to act as trustee for any subsequent purposes of the administration of the debtor's estate, but no liability shall attach to him personally by reason of his so continuing in respect of any act done, default made, or liability incurred before his release.

(5) Where the trustee has not previously resigned or been removed, his release shall operate as a removal of him from his office, and thereupon the official receiver shall be the trustee.

(6) Where, on the release of a trustee, an official receiver is, or is acting as, trustee, no liability shall attach to him personally in respect of any act done or default made, or liability incurred, by any prior trustee.

94. Office of trustee vacated by insolvency.] If a receiving order is made against a trustee, he shall thereby vacate his office of trustee.

95. Removal of trustee.] (1) The creditors may, by ordinary resolution, at a meeting specially called for that purpose, of which seven days' notice has been given, remove a trustee appointed by them, and may, at the same or any subsequent meeting, appoint another person to fill the vacancy as hereinafter provided in case of a vacancy in the office of trustee.

(2) If the Board of Trade are of opinion—

- (a) that a trustee appointed by the creditors is guilty of misconduct, or fails to perform his duties under this Act; or
- (b) that his trusteeship is being needlessly protracted without any probable advantage to the creditors; or
- (c) that he is by reason of lunacy, or continued sickness or absence, incapable of performing his duties; or
- (d) that his connection with or relation to the bankrupt or his estate, or any particular creditor, might make it difficult for him to act with impartiality in the interest of the creditors generally; or

where in any other matter he has been removed from office on the ground of misconduct, the Board may remove him from his office, but, if the creditors by ordinary resolution disapprove of

this removal, he or they may appeal against it to the High Court.

PART V.

CONSTITUTION, PROCEDURE, AND POWERS OF COURT.

Jurisdiction.

96. Jurisdiction to be exercised by High Court and county courts.] (1) The courts having jurisdiction in bankruptcy shall be the High Court and the county courts.

(2) But the Lord Chancellor may from time to time, by order under his hand, exclude any county court from having jurisdiction in bankruptcy, and for the purposes of bankruptcy jurisdiction may attach its district or any part thereof to the High Court, or to any other county court or courts, and may from time to time revoke or vary any order so made. The Lord Chancellor may, in like manner and subject to the like conditions, detach the district of any county court or any part thereof from the district and jurisdiction of the High Court.

(3) The term "district," when used in this Act with reference to a county court, means the district of the court for the purposes of bankruptcy jurisdiction.

(4) A county court which at the commencement of this Act is excluded from having bankruptcy jurisdiction shall continue to be so excluded until the Lord Chancellor otherwise orders, and the districts existing at the commencement of this Act shall subsist until the Lord Chancellor otherwise orders.

(5) Periodical sittings for the transaction of bankruptcy business by county courts having jurisdiction in bankruptcy shall be held at such times and at such intervals as the Lord Chancellor prescribes for each such court.

97. Transaction of bankruptcy business by special judge of High Court.] (1) Subject to general rules, and to orders of transfer made under the authority of the Supreme Court of Judicature Act, 1873 [36 & 37 Vict. c. 66], and Acts amending it, all matters in respect of which jurisdiction is given to the High Court by this Act shall be assigned to such division of the High Court as the Lord Chancellor may from time to time direct.

(2) All such matters shall, subject as aforesaid, be ordinarily transacted and disposed of by or under the direction of one of the judges of the High Court, and the Lord Chancellor shall from time to time assign a judge for that purpose.

Provided that during vacation, or during the illness of the judge so assigned, or during his absence, or for any other reasonable cause, such matters or any part thereof, may be transacted and disposed of by or under the directions of any judge of the High Court named for that purpose by the Lord Chancellor.

(3) Subject to general rules, all bankruptcy matters shall be entitled "In bankruptcy."

98. Petition, where to be presented.] (1) If the debtor by or against whom a bankruptcy petition is presented has resided or carried on business within the London bankruptcy district as defined by this Act for the greater part of the six months immediately preceding the presentation of the petition, or for a longer period during those six months than in the district of any county court, or is not resident in England, or if the petitioning creditor is unable to ascertain the residence of the debtor, the petition shall be presented to the High Court.

(2) In any other case the petition shall be presented to the county court for the district in which the debtor has resided or carried on business for the longest period during the six months immediately preceding the presentation of the petition.

(3) Nothing in this section shall invalidate a proceeding by reason of its being taken in a wrong court.

99. Definition of London bankruptcy district.] The London bankruptcy district shall, for the purposes of this Act, comprise the city of London and the liberties thereof, and all such parts of

the metropolis and other places as are situated within the district of any county court described as a metropolitan county court in the list contained in the Third Schedule to this Act.

100. Transfer of proceedings from court to court.] (1) Subject to the provisions of this Act, every court having original jurisdiction in bankruptcy shall have jurisdiction throughout England.

(2) Any proceedings in bankruptcy may at any time, and at any stage thereof, and either with or without application from any of the parties thereto, be transferred by any prescribed authority and in the prescribed manner from one court to another court, or may, by the like authority, be retained in the court in which the proceedings were commenced, although it may not be the court in which the proceedings ought to have been commenced.

(3) If any question of law arises in any bankruptcy proceeding in a county court which all the parties to the proceeding desire, or which one of them and the judge of the county court desire, to have determined in the first instance in the High Court, the judge shall state the facts in the form of a special case for the opinion of the High Court. The special case and the proceedings, or such of them as may be required, shall be transmitted to the High Court for the purposes of the determination.

101. Exercise in chambers of High Court jurisdiction.] Subject to the provisions of this Act and to general rules, the judge of the High Court exercising jurisdiction in bankruptcy may exercise in chambers the whole or any part of his jurisdiction.

102. Jurisdiction in bankruptcy of registrar.] (1) The registrars in bankruptcy of the High Court, and the registrars of county courts having jurisdiction in bankruptcy, shall have the powers and jurisdiction in this section mentioned, and any order made or act done by such registrars in the exercise of the said powers and jurisdiction shall be deemed the order or act of the court.

(2) Subject to general rules limiting the powers conferred by this section, a registrar shall have power—

- (a) To hear bankruptcy petitions, and to make receiving orders and adjudications thereon;
- (b) To hold the public examination of debtors;
- (c) To grant orders of discharge where the application is not opposed;
- (d) To approve compositions or schemes of arrangement where they are not opposed;
- (e) To make interim orders in cases of urgency;
- (f) To make any order or exercise any jurisdiction which by any rule in that behalf is prescribed as proper to be made or exercised in chambers;
- (g) To hear and determine any unopposed or ex parte application;
- (h) To summon and examine any person known or suspected to have in his possession effects of the debtor or to be indebted to him, or capable of giving information respecting the debtor, his dealings or property.

(3) The registrars in bankruptcy of the High Court shall also have power to grant orders of discharge and certificates of removal of disqualifications, and to approve compositions and schemes of arrangement.

(4) A registrar shall not have power to commit for contempt of court.

(5) The Lord Chancellor may by order direct that any specified registrar of a county court shall have and exercise all the powers of a registrar in bankruptcy of the High Court.

103. Powers of county court.] A county court shall, for the purposes of its bankruptcy jurisdiction, in addition to the ordinary powers of the court, have all the powers and jurisdiction of the High Court, and the orders of the court may be enforced accordingly in manner prescribed.

104. Board of Trade to make payments in accordance with directions of court.] Where any moneys or funds have been received by an official receiver or by the Board of Trade, and the court makes an order declaring that any person is entitled to such moneys or funds, the Board of Trade shall make an order for the payment thereof to that person.

105. General power of bankruptcy courts.] (1) Subject to the provisions of this Act, every court having jurisdiction in bankruptcy under this Act shall have full power to decide all questions of priorities, and all other questions whatsoever, whether of law or fact, which may arise in any case of bankruptcy coming within the cognizance of the court, or which the court may deem it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case:

Provided that the jurisdiction hereby given shall not be exercised by the county court for the purpose of adjudicating upon any claim, not arising out of the bankruptcy, which might heretofore have been enforced by action in the High Court, unless all parties to the proceedings consent thereto, or the money, money's worth, or right in dispute does not, in the opinion of the judge, exceed in value two hundred pounds.

(2) A court having jurisdiction in bankruptcy under this Act shall not be subject to be restrained in the execution of its powers under this Act by the order of any other court, nor shall any appeal lie from its decisions, except in manner directed by this Act.

(3) If in any proceeding in bankruptcy there arises any question of fact which either of the parties desire to be tried before a jury instead of by the court itself, or which the court thinks ought to be tried by a jury, the court may, if it thinks fit, direct the trial to be had with a jury, and the trial may be had accordingly in the High Court in the same manner as if it were the trial of an issue of fact in an action, and in the county court in the manner in which jury trials in ordinary cases are by law held in that court.

(4) Where a receiving order has been made in the High Court under this Act, the judge by whom such order was made shall have power, if he sees fit, without any further consent, to order the transfer to such judge of any action pending in any other division and brought or continued by or against the bankrupt.

(5) Where default is made by a trustee, debtor, or other person, in obeying any order or direction given by the Board of Trade, or by an official receiver or any other officer of the Board of Trade under any power conferred by this Act or any enactment repealed by this Act, the court may, on the application of the Board of Trade or an official receiver or other duly authorized person, order such defaulting trustee, debtor, or person to comply with the order or direction so given; and the court may also, if it thinks fit, upon any such application, make an immediate order for the committal of such defaulting trustee, debtor, or other person; provided that the power given by this subsection shall be deemed to be in addition to and not in substitution for any other right or remedy in respect of such default.

106. Notification of bankruptcy of peers and members of Parliament.] (1) If a peer of the United Kingdom or of any part of the United Kingdom or any other Lord of Parliament is adjudged bankrupt, the court shall cause the fact of his having been adjudged bankrupt to be certified as soon as may be to the Speaker of the House of Lords and the Clerk of the Crown in Chancery.

(2) If a member of the House of Commons is adjudged bankrupt, and the disqualifications arising from his bankruptcy are not removed within six months from the date of the order, the court shall immediately after the expiration of that time certify the same to the Speaker of the House of Commons.

Judgment Debtors.

107. Judgment debtor's summons to be bankruptcy business.] (1) It shall be lawful for the

Lord Chancellor by order to direct that the jurisdiction and powers under section five of the Debtors Act, 1869 [32 & 33 Vict., c. 62], now vested in the High Court, shall be assigned to and exercised by the judge to whom bankruptcy business is assigned.

(2) It shall be lawful also for the Lord Chancellor in like manner to direct that the whole or any part of the said jurisdiction and powers shall be delegated to and exercised by the registrars in bankruptcy of the High Court.

(3) Any order made under this section may, at any time, in like manner, be rescinded or varied.

(4) Where, under section five of the Debtors Act, 1869, application is made by a judgment creditor to a court having bankruptcy jurisdiction for the committal of a judgment debtor, the court may, if it thinks fit, decline to commit, and in lieu thereof, with the consent of the judgment creditor and on payment by him of the prescribed fee, make a receiving order against the debtor. In such case the judgment debtor shall be deemed to have committed an act of bankruptcy at the time the order is made, and the provisions of this Act except Part VII. thereof shall apply as if for references to the presentation of a petition by or against a person there were substituted references to the making of such a receiving order.

(5) General rules under this Act may be made for the purpose of carrying into effect the provisions of the Debtors Act, 1869.

Appeals.

108. Appeals in bankruptcy.] (1) Every court having jurisdiction in bankruptcy under this Act may review, rescind or vary any order made by it under its bankruptcy jurisdiction.

(2) Orders in bankruptcy matters shall, at the instance of any person aggrieved, be subject to appeal as follows:—

(a) Where the order is made by a county court, an appeal shall lie to a Divisional Court of the High Court, of which the judge to whom bankruptcy business is for the time being assigned shall, for the purpose of hearing any such appeal, be a member. The decision of the Divisional Court upon any such appeal shall be final and conclusive, unless in any case the Divisional Court or the Court of Appeal sees fit to give special leave to appeal therefrom to the Court of Appeal, whose decision in such case shall be final and conclusive;

(b) Where the order (not being an order on appeal from a county court) is made by the High Court, an appeal shall lie to the Court of Appeal, and an appeal shall, with the leave of the Court of Appeal, but not otherwise, lie from the order of that court to the House of Lords;

(c) No appeal shall be entertained except in conformity with such general rules as may for the time being be in force in relation to the appeal.

(3) Where by this Act an appeal to the High Court is given against any decision of the Board of Trade, or of the official receiver, the appeal shall be brought within twenty-one days from the time when the decision appealed against is pronounced or made.

Procedure.

109. Discretionary powers of court.] (1) Subject to the provisions of this Act and to general rules, the costs of and incidental to any proceeding in court under this Act shall be in the discretion of the court: Provided that, where any issue is tried by a jury, the costs shall follow the event, unless, upon application made at the trial, for good cause shown, the judge before whom such issue is tried otherwise orders.

(2) The court may at any time adjourn any proceedings before it upon such terms, if any, as it may think fit to impose.

(3) The court may at any time amend any written process or proceeding under this Act upon such terms, if any, as it may think fit to impose.

(4) Where by this Act, or by general rules, the time for doing any act or thing is limited, the

court may extend the time either before or after the expiration thereof, upon such terms, if any, as the court may think fit to impose.

(5) Subject to general rules, the court may in any matter take the whole or any part of the evidence either *vis à voce*, or by interrogatories, or upon affidavit, or, out of the United Kingdom, by commission.

110. Consolidation of petitions.] Where two or more bankruptcy petitions are presented against the same debtor or against joint debtors, the court may consolidate the proceedings, or any of them, on such terms as the court thinks fit.

111. Power to change carriage of proceedings.] Where the petitioner does not proceed with due diligence on his petition, the court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act in the case of the petitioning creditor.

112. Continuance of proceedings on death of debtor.] If a debtor by or against whom a bankruptcy petition has been presented dies, the proceedings in the matter shall, unless the court otherwise orders, be continued as if he were alive.

113. Power to stay proceedings.] The court may at any time, for sufficient reason, make an order to stay the proceedings under a bankruptcy petition, either altogether or for a limited time, on such terms and subject to such conditions as the court may think just.

114. Power to present petition against one partner.] Any creditor whose debt is sufficient to entitle him to present a bankruptcy petition against all the partners of a firm may present a petition against any one or more partners of the firm without including the others.

115. Power to dismiss petition against some respondents only.] Where there are more respondents than one to a petition, the court may dismiss the petition as to one or more of them, without prejudice to the effect of the petition as against the other or others of them.

116. Property of partners to be vested in same trustee.] Where a receiving order has been made on a bankruptcy petition by or against one member of a partnership, any other bankruptcy petition by or against a member of the same partnership shall be filed in or transferred to the court in which the first-mentioned petition is in course of prosecution, and, unless the court otherwise directs, the same trustee or receiver shall be appointed as may have been appointed in respect of the property of the first-mentioned member of the partnership, and the court may give such directions for consolidating the proceedings under the petitions as it thinks just.

117. Actions by trustee and bankrupt's partners.] Where a member of a partnership is adjudged bankrupt, the court may authorise the trustee to commence and prosecute any action in the names of the trustee and of the bankrupt's partner; and any release by such partner of the debt or demand to which the action relates shall be void; but notice of the application for authority to commence the action shall be given to him, and he may show cause against it, and on his application the court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the action, and, if he does not claim any benefit therefrom, he shall be indemnified against costs in respect thereof as the court directs.

118. Actions on joint contracts.] Where a bankrupt is a contractor in respect of any contract jointly with any person or persons, such person or persons may sue or be sued in respect of the contract without the joinder of the bankrupt.

119. Proceedings in partnership name.] Any two or more persons, being partners, or any person carrying on business under a partnership name, may take proceedings or be proceeded against under this Act in the name of the firm, but in such case the court may, on application by any person interested, order the names of the persons who are partners in such firm or the name of such person to be disclosed in such

manner, and verified on oath or otherwise, as the court may direct.

Officers.

120. Disabilities of officers.] (1) No registrar or other officer attached to any court having jurisdiction in bankruptcy shall, during his continuance in office, be capable of being elected or sitting as a member of the House of Commons.

(2) No registrar or official receiver or other officer attached to any such court shall, during his continuance in office, either directly or indirectly, by himself, his clerk, or partner, act as solicitor in any proceeding in bankruptcy or in any prosecution of a debtor by order of the court, and, if he does so act, he shall be liable to be dismissed from office.

Provided that nothing in this section shall affect the right of any registrar or officer appointed before the twenty-fifth day of August, eighteen hundred and eighty-three, to act as solicitor by himself, his clerk, or partner to the extent permitted by section sixty-nine of the Bankruptcy Act, 1869 [32 & 33 Vict. c. 71.]

Orders and Warrants of Court.

121. Enforcement of orders of courts throughout United Kingdom.] Any order made by a court having jurisdiction in bankruptcy in England under this Act or any enactment repealed by this Act shall be enforced in Scotland and Ireland in the courts having jurisdiction in bankruptcy in those parts of the United Kingdom respectively, in the same manner in all respects as if the order had been made by the court hereby required to enforce it; and in like manner any order made by a court having jurisdiction in bankruptcy in Scotland shall be enforced in England and Ireland, and any order made by a court having jurisdiction in bankruptcy in Ireland shall be enforced in England and Scotland by the courts respectively having jurisdiction in bankruptcy in the part of the United Kingdom where the orders may require to be enforced, and in the same manner in all respects as if the order had been made by the court required to enforce it in a case of bankruptcy within its own jurisdiction.

122. Courts to be auxiliary to each other.] The High Court, the county courts, the courts having jurisdiction in bankruptcy in Scotland and Ireland, and every British court elsewhere having jurisdiction in bankruptcy or insolvency, and the officers of those courts respectively, shall severally act in aid of and be auxiliary to each other in all matters of bankruptcy, and an order of the court seeking aid, with a request to another of the said courts, shall be deemed sufficient to enable the latter court to exercise, in regard to the matters directed by the order, such jurisdiction as either the court which made the request, or the court to which the request is made, could exercise in regard to similar matters within their respective jurisdictions.

123. Warrants of Bankruptcy Courts.] (1) Any warrant of a court having jurisdiction in bankruptcy in England may be enforced in Scotland, Ireland, the Isle of Man, the Channel Islands, and elsewhere in His Majesty's dominions, in the same manner and subject to the same privileges in and subject to which a warrant issued by any justice of the peace against a person for an indictable offence against the laws of England, may be executed in those parts of His Majesty's dominions respectively, in pursuance of the Acts of Parliament in that behalf.

(2) A search warrant issued by a court having jurisdiction in bankruptcy for the discovery of any property of a debtor may be executed in manner prescribed or in the same manner and subject to the same privileges in and subject to which a search warrant for property supposed to be stolen may be executed according to law.

124. Commitment to prison.] Where the court commits any person to prison, the commitment may be to such convenient prison as the court thinks expedient, and, if the gaoler of any prison refuses to receive any prisoner so committed, he shall be liable for every such refusal to a fine not exceeding one hundred pounds.

PART VI.
SUPPLEMENTAL PROVISIONS.

Application of Act.

125. Married women.] (1) Every married woman who carries on a trade or business, whether separately from her husband or not, shall be subject to the bankruptcy laws as if she were a feme sole.

(2) Where a married woman carries on a trade or business and a final judgment or order for any amount has been obtained against her, whether or not expressed to be payable out of her separate property, that judgment or order shall be available for bankruptcy proceedings against her by a bankruptcy notice as though she were personally bound to pay the judgment debt or sum ordered to be paid.

126. Exclusion of companies.] A receiving order shall not be made against any corporation or against any partnership or association or company registered under the Companies (Consolidation) Act, 1906 [8 Edw. 7, c. 69], or any enactment repealed by that Act.

127. Application to limited partnerships.] Subject to such modifications as may be made by general rules under this Act, the provisions of this Act shall apply to limited partnerships in like manner as if limited partnerships were ordinary partnerships, and, on all the general partners of a limited partnership being adjudged bankrupt, the assets of the limited partnership shall vest in the trustee.

128. Privilege of Parliament.] If a person having privilege of Parliament commits an act of bankruptcy, he may be dealt with under this Act in like manner as if he had not such privilege.

129. Application of Act in case of small estates.] Where a petition is presented by or against a debtor, if the court is satisfied by affidavit or otherwise, or the official receiver reports to the court, that the property of the debtor is not likely to exceed in value three hundred pounds, the court may make an order that the debtor's estate be administered in a summary manner, and thereupon the provisions of this Act shall be subject to the following modifications:—

- (i) If the debtor is adjudged bankrupt the official receiver shall be the trustee in the bankruptcy;
- (ii) There shall be no committee of inspection, but the official receiver may do with the permission of the Board of Trade all things which may be done by the trustee with the permission of the committee of inspection;
- (iii) Such other modifications may be made in the provisions of this Act as may be prescribed by general rules with the view of saving expense and simplifying procedure; but nothing in this section shall permit the modification of the provisions of this Act relating to the examination or discharge of the debtor.

Provided that the creditors may at any time, by special resolution, resolve that some person other than the official receiver be appointed trustee in the bankruptcy, and thereupon the bankruptcy shall proceed as if an order for summary administration had not been made.

130. Administration in bankruptcy of estate of person dying insolvent.] (1) Any creditor of a deceased debtor whose debt would have been sufficient to support a bankruptcy petition against the debtor, had he been alive, may present to the court a petition in the prescribed form praying for an order for the administration of the estate of the deceased debtor, according to the law of bankruptcy.

(2) Upon the prescribed notice being given to the legal personal representative of the deceased debtor, the court may, in the prescribed manner, upon proof of the petitioner's debt, unless the court is satisfied that there is a reasonable probability that the estate will be sufficient for the payment of the debts owing by the deceased, make an order for the administration in bank-

ruptcy of the deceased debtor's estate, or may, upon cause shown, dismiss the petition with or without costs.

(3) A petition for administration under this section shall not be presented to the court after proceedings have been commenced in any court of justice for the administration of the deceased debtor's estate, but that court may, when satisfied that the estate is insufficient to pay its debts, transfer the proceedings to the court exercising jurisdiction in bankruptcy, and thereupon the last-mentioned court may, in the prescribed manner, make an order for the administration of the estate of the deceased debtor, and the like consequences shall ensue as under an administration order made on the petition of a creditor.

(4) Upon an order being made for the administration of a deceased debtor's estate, the property of the debtor shall vest in the official receiver of the court, as trustee thereof, and he shall forthwith proceed to realise and distribute it in accordance with the provisions of this Act.

Provided that the creditors shall have the same powers as to appointment of trustees and committees of inspection as they have in other cases where the estate of a debtor is being administered or dealt with in bankruptcy, and the provisions of this Act, relating to trustees and committees of inspection appointed under the power so conferred.

If no committee of inspection is appointed, any act or thing or any direction or permission which might have been done or given by a committee of inspection may be done or given by the Board of Trade.

(5) With the modifications hereinafter mentioned, all the provisions of Part II. of this Act (relating to the administration of the property of a bankrupt) and, subject to any modification that may be made therein by general rules under subsection eleven of this section, the following provisions, namely, section twenty-five of this Act (which relates to inquiries as to the debtor's conduct, dealings, and property); section eighty-three of this Act (which relates to the costs of trustees, managers, and other persons); section one hundred and twenty-nine of this Act (which relates to the summary administration of small estates); and subsection (4) of section ninety-three of this Act so far as it relates to the effect of the release of official receivers; shall, so far as the same are applicable, apply to the case of an administration order under this section in like manner as to an order of adjudication under this Act, and subsection (1) of section thirty-five of this Act shall apply as if for the reference to an order of adjudication there were substituted a reference to an administration order under this section.

(6) In the administration of the property of the deceased debtor under an order of administration, the official receiver or trustee shall have regard to any claim by the legal personal representative of the deceased debtor to payment of the proper funeral and testamentary expenses incurred by him in and about the debtor's estate, and such claims shall be deemed a preferential debt under the order, and shall, notwithstanding anything to the contrary in the provisions of this Act relating to the priority of other debts, be payable in full, out of the debtor's estate, in priority to all other debts.

(7) If, on the administration of a deceased debtor's estate, any surplus remains in the hands of the official receiver or trustee, after payment in full of all the debts due from the debtor, together with the costs of the administration and interest as provided by this Act in case of bankruptcy, such surplus shall be paid over to the legal personal representative of the deceased debtor's estate, or dealt with in such other manner as may be prescribed.

(8) Notice to the legal personal representative of a deceased debtor of the presentation by a creditor of a petition under this section shall, in the event of an order for administration being made thereon, be deemed to be equivalent to notice of an act of bankruptcy, and after such notice no payment or transfer of property made by the legal personal representative shall operate as a discharge to him as between himself and

the official receiver or trustee; save as aforesaid nothing in this section shall invalidate any payment made or any act or thing done in good faith by the legal personal representative before the date of the order for administration.

(9) A petition for the administration of the estate of a deceased debtor under this section may be presented by the legal personal representative of the debtor; and, where a petition is so presented by such a representative, this section shall apply subject to such modifications as may be prescribed by general rules made under subsection eleven of this section.

(10) Unless the context otherwise requires, "court," in this section, means the court within the jurisdiction of which the debtor resided or carried on business for the greater part of the six months immediately prior to his decease: "creditor" means one or more creditors qualified to present a bankruptcy petition as in this Act provided.

(11) General rules for carrying into effect the provisions of this section may be made in the same manner and to the like effect and extent as in bankruptcy.

131. Outstanding bankruptcies under earlier enactments.] (1) The enactments set out in the Fourth Schedule to this Act, and re-enacted in the manner therein appearing, shall apply as respects debtors who have been adjudged bankrupt or whose affairs have been liquidated by arrangement under the Bankruptcy Act, 1869, or any previous Bankruptcy Act, and as respects proceedings under any such Act outstanding at the commencement of this Act.

(2) Save as aforesaid, nothing in this Act shall affect such proceedings as aforesaid, but they shall continue, and the provisions of the Bankruptcy Act, 1869, or any previous Bankruptcy Acts, and any rules, orders, and tables of fees made thereunder, which were applicable to the case immediately before the commencement of this Act, shall continue to apply thereto as if this Act had not been passed.

General Rules.

132. Power to make general rules.] (1) The Lord Chancellor may, with the concurrence of the President of the Board of Trade, make general rules for carrying into effect the objects of this Act.

Provided that the general rules so made shall not extend the jurisdiction of the court.

(2) All general rules made under this section shall be laid before Parliament within three weeks after they are made if Parliament is then sitting, and, if Parliament is not then sitting, within three weeks after the beginning of the then next session of Parliament, and shall be judicially noticed, and shall have effect as if enacted by this Act.

Fees, Salaries, Expenditure, and Returns.

133. Fees and remuneration.] (1) The Lord Chancellor may, with the sanction of the Treasury, prescribe a scale of fees and percentages to be charged for or in respect of proceedings under this Act; and the Treasury shall direct by whom and in what manner they are to be collected and accounted for, and to what account they shall be paid.

(2) The Board of Trade, with the concurrence of the Treasury, shall direct whether any and what remuneration is to be allowed to any officer of, or person attached to, the Board of Trade, performing any duties under this Act, and may vary, increase, or diminish such remuneration, as they may think fit.

134. Judicial salaries, &c.] The Lord Chancellor, with the concurrence of the Treasury, shall direct whether any and what remuneration is to be allowed to any person (other than an officer of the Board of Trade) performing any duties under this Act, and may vary, increase, or diminish such remuneration, as he may think fit.

135. Annual accounts of receipts and expenditure in respect of bankruptcy proceedings.] (1) The Treasury shall annually cause to be prepared and laid before both Houses of Parliament an

account for the year ending with the thirty-first day of March, showing the receipts and expenditure during that year in respect of bankruptcy proceedings, whether commenced under this or any previous Act, and the provisions of section twenty-eight of the Supreme Court of Judicature Act, 1875 (38 & 39 Vict. c. 77), shall apply to the account as if the account had been required by that section.

(2) The accounts of the Board of Trade, under this Act, shall be audited in such manner as the Treasury direct, and for the purpose of the account to be laid before Parliament the Board of Trade shall make such returns and give such information as the Treasury may direct.

136. Returns by bankruptcy officers.] The registrars and other officers of the courts acting in bankruptcy shall make to the Board of Trade such returns of the business of their respective courts and offices, at such times and in such manner and form as may be prescribed, and from such returns the Board of Trade shall cause books to be prepared which shall, under the regulations of the Board, be open for public information and searches.

The Board of Trade shall also cause a general annual report of all matters, judicial and financial, within this Act, to be prepared and laid before both Houses of Parliament.

Evidence.

137. Gazette to be evidence.] (1) A copy of the London Gazette containing any notice inserted therein in pursuance of this Act, shall be evidence of the facts stated in the notice.

(2) The production of a copy of the London Gazette containing any notice of a receiving order, or of an order adjudging a debtor bankrupt, shall be conclusive evidence in all legal proceedings of the order having been duly made, and of its date.

138. Evidence of proceedings at meetings of creditors.] (1) A minute of proceedings at a meeting of creditors under this Act, signed at the same or the next ensuing meeting, by a person describing himself as, or appearing to be, chairman of the meeting at which the minute is signed, shall be received in evidence without further proof.

(2) Until the contrary is proved, every meeting of creditors in respect of the proceedings whereof a minute has been so signed shall be deemed to have been duly convened and held, and all resolutions passed or proceedings had thereat to have been duly passed or had.

139. Evidence of proceedings in bankruptcy.] Any petition or copy of a petition in bankruptcy, any order or certificate or copy of an order or certificate made by any court having jurisdiction in bankruptcy, any instrument or copy of an instrument, affidavit, or document made or used in the course of any bankruptcy proceedings or other proceedings had under this Act, shall, if it appears to be sealed with the seal of any court having jurisdiction in bankruptcy, or purports to be signed by any judge thereof, or is certified as a true copy by any registrar thereof, be receivable in evidence in all legal proceedings whatever.

140. Swearing of affidavits.] Subject to general rules, any affidavit to be used in a bankruptcy court may be sworn before any person authorised to administer oaths in the High Court, or in the Court of Chancery of the county palatine of Lancaster, or before any registrar of a bankruptcy court, or before any officer of a bankruptcy court authorised in writing in that behalf by the judge of the court, or before a justice of the peace for the county or place where it is sworn, or, in the case of a person residing in Scotland or in Ireland, before a judge ordinary, magistrate, or justice of the peace, or, in the case of a person who is out of the United Kingdom, before a magistrate or justice of the peace or other person qualified to administer oaths in the country where he resides (he being certified to be a magistrate or justice of the peace, or qualified as aforesaid, by a British minister, or British consul, or by a notary public).

141. Death of debtor or witness.] In the case of the death of the debtor or his wife, or of a witness whose evidence has been received by any

court in any proceeding under this Act, the deposition of the person so deceased, purporting to be sealed with the seal of the court, or a copy thereof purporting to be so sealed, shall be admitted as evidence of the matters therein deposed to.

142. Bankruptcy courts to have seals.] Every court having jurisdiction in bankruptcy under this Act shall have a seal describing the court in such manner as may be directed by order of the Lord Chancellor, and judicial notice shall be taken of the seal, and of the signature of the judge or registrar of any such court, in all legal proceedings.

143. Certificate of appointment of trustee.] A certificate of the Board of Trade that a person has been appointed trustee under this Act shall be conclusive evidence of his appointment.

144. Proceedings of Board of Trade.] (1) All documents purporting to be orders or certificates made or issued by the Board of Trade, and to be sealed with the seal of the Board, or to be signed by a secretary or assistant secretary of the Board, or any person authorised in that behalf by the President of the Board, shall be received in evidence, and deemed to be such orders or certificates without further proof unless the contrary is shown.

(2) A certificate signed by the President of the Board of Trade that any order made, certificate issued, or act done, is the order, certificate, or act of the Board of Trade shall be conclusive evidence of the fact so certified.

Miscellaneous.

145. Computation of time.] (1) Where by this Act any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of that limited time the same shall be taken as exclusive of the day of that date or of the happening of that event, and as commencing at the beginning of the next following day; and the act or proceeding shall be done or taken at latest on the last day of that limited time as so computed, unless the last day is a Sunday, Christmas Day, Good Friday, or Monday or Tuesday in Easter Week, or a day appointed for public fast, humiliation, or thanksgiving, or a day on which the court does not sit, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards which is not one of the days in this section specified.

(2) Where by this Act any act or proceeding is directed to be done or taken on a certain day, then, if that day happens to be one of the days in this section specified, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards which is not one of the days in this section specified.

146. Service of notices.] All notices and other documents for the service of which no special mode is directed may be sent by post to the last known address of the person to be served therewith.

147. Formal defect not to invalidate proceedings.] (1) No proceeding in bankruptcy shall be invalidated by any formal defect or by any irregularity, unless the court before which an objection is made to the proceeding is of opinion that substantial injustice has been caused by the defect or irregularity, and that the injustice cannot be remedied by any order of that court.

(2) No defect or irregularity in the appointment or election of a receiver, trustee, or member of a committee of inspection shall vitiate any act done by him in good faith.

148. Exemption of deeds, &c., from stamp duty.] Every deed, conveyance, assignment, surrender, admission or other assurance relating solely to freehold, leasehold, copyhold or customary property, or to any mortgage charge or other incumbrance on, or any estate, right, or interest in, any real or personal property which is part of the estate of any bankrupt, and which, after the execution of the deed, conveyance, assignment, surrender, admission or other assurance, either at law or in equity, is or remains the

estate of the bankrupt or of the trustee under the bankruptcy, and every power of attorney, proxy, paper, writ, order, certificate, affidavit, bond or other instrument or writing relating solely to the property of any bankrupt, or to any proceeding under any bankruptcy, shall be exempt from stamp duty, except in respect of fees under this Act.

149. Acting of corporations, partners, &c.] For all or any of the purposes of this Act, a corporation may act by any of its officers authorised in that behalf under the seal of the corporation, a firm may act by any of its members, and a lunatic may act by his committee or curator bonis.

150. Construction of Acts mentioning commission of bankruptcy, &c.] (1) Where in any Act, instrument, or proceeding, passed, executed, or taken before the commencement of this Act, mention is made of a commission of bankruptcy or fiat in bankruptcy, the same shall be construed, with reference to the proceedings under a bankruptcy petition, as if a commission or a fiat in bankruptcy had been actually issued at the time of the presentation of such petition.

(2) Where by any Act or instrument reference is made to the Bankruptcy Act, 1869, or to any enactment repealed by this Act, that Act or instrument shall, unless the context otherwise requires, be construed and have effect as if this Act or the corresponding provision (if any) of this Act were therein referred to.

151. Certain provisions to bind Crown.] Save as provided in this Act, the provisions of this Act relating to the remedies against the property of a debtor, the priorities of debts, the effect of a composition or scheme of arrangement, and the effect of a discharge, shall bind the Crown.

152. Saving for existing rights of audience.] Nothing in this Act shall take away or affect any right of audience that any person may have had at the commencement of this Act.

Unclaimed Funds or Dividends.

153. Unclaimed and undistributed dividends or funds under this and former Acts.] (1) Where the trustee, under any bankruptcy composition or scheme, pursuant to this Act or any enactment repealed by this Act, has under his control any unclaimed dividend which has remained unclaimed for more than six months, or where, after making a final dividend, he has in his hands or under his control any unclaimed or undistributed money arising from the property of the debtor, he shall forthwith pay it to the Bankruptcy Estates Account at the Bank of England. The Board of Trade shall furnish him with a certificate of receipt of the money so paid, which shall be an effectual discharge to him in respect thereof.

(2) Where any unclaimed or undistributed funds or dividends in the hands or under the control of any trustee or other person empowered to collect, receive, or distribute any funds or dividends under any Act of Parliament mentioned in the Fifth Schedule to this Act, or any petition, resolution, deed or other proceeding under or in pursuance of any such Act, have remained or remain unclaimed or undistributed for six months after they became claimable or distributable, or in any other case for two years after the receipt thereof by such trustee or other person, it shall be the duty of such trustee or other person forthwith to pay them to the Bankruptcy Estates Account at the Bank of England. The Board of Trade shall furnish the trustee or other person with a certificate of receipt of the money so paid, which shall be an effectual discharge to him in respect thereof.

The Board of Trade may at any time order any such trustee or other person to submit to them an account verified by affidavit of the sums received and paid by him under or in pursuance of any such petition, resolution, deed, or other proceeding as aforesaid, and may direct and enforce an audit of the account.

The Board of Trade, with the concurrence of the Treasury, may from time to time appoint a person to collect and get in all such unclaimed or undistributed funds or dividends, and for the purposes of this section any court having jurisdiction in bankruptcy shall have and, at the

instance of the person so appointed or of the Board of Trade, may exercise, all the powers conferred by this Act with respect to the discovery and realisation of the property of a debtor, and the provisions of Part I. of this Act with respect thereto shall, with any necessary modifications, apply to proceedings under this section.

(3) The provisions of this section shall not, except as expressly declared herein, deprive any person of any larger or other right or remedy to which he may be entitled against such trustee or other person.

(4) Any person claiming to be entitled to any moneys paid in to the Bankruptcy Estates Account, pursuant to this section, may apply to the Board of Trade for payment to him of the same, and the Board of Trade, if satisfied that the person claiming is entitled, shall make an order for the payment to such person of the sum due.

Any person dissatisfied with the decision of the Board of Trade in respect of his claim may appeal to the High Court.

PART VII.

BANKRUPTCY OFFENCES.

154. Fraudulent debtors.] Any person who has been adjudged bankrupt or in respect of whose estate a receiving order has been made shall in each of the cases following be guilty of a misdemeanour:—

- (1) If he does not to the best of his knowledge and belief fully and truly discover to the trustee all his property, real and personal, and how and to whom and for what consideration and when he disposed of any part thereof, except such part as has been disposed of in the ordinary way of his trade (if any) or laid out in the ordinary expense of his family, unless he proves that he had no intent to defraud;
- (2) If he does not deliver up to the trustee, or as he directs, all such part of his real and personal property as is in his custody or under his control, and which he is required by law to deliver up, unless he proves that he had no intent to defraud;
- (3) If he does not deliver up to the trustee, or as he directs, all books, documents, papers, and writings in his custody or under his control relating to his property or affairs, unless he proves that he had no intent to defraud;
- (4) If, after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he conceals any part of his property to the value of ten pounds or upwards, or conceals any debt due to or from him, unless he proves that he had no intent to defraud;
- (5) If, after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he fraudulently removes any part of his property to the value of ten pounds or upwards;
- (6) If he makes any material omission in any statement relating to his affairs, unless he proves that he had no intent to defraud;
- (7) If, knowing or believing that a false debt has been proved by any person under the bankruptcy, he fails for the period of a month to inform the trustee thereof;
- (8) If, after the presentation of a bankruptcy petition by or against him, he prevents the production of any book, document, paper, or writing affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law;
- (9) If, after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he conceals, destroys, mutilates, or falsifies, or is privy to the concealment, destruction, mutilation, or falsification of any book or document affecting or relating to his property or affairs, unless he proves that he had no

intent to conceal the state of his affairs or to defeat the law:

- (10) If, after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he makes or is privy to the making of any false entry in any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law;
- (11) If, after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he fraudulently parts with alters, or makes any omission in, or is privy to the fraudulently parting with, altering, or making any omission in, any document affecting or relating to his property or affairs;
- (12) If, after the presentation of a bankruptcy petition by or against him, or at any meeting of his creditors within six months next before such presentation, he attempts to account for any part of his property by fictitious losses or expenses;
- (13) If, within six months next before the presentation of a bankruptcy petition by or against him, or, in the case of a receiving order made under section one hundred and seven of this Act, before the date of the order, or after the presentation of a bankruptcy petition and before the making of a receiving order, he, by any false representation or other fraud, has obtained any property on credit and has not paid for the same;
- (14) If, within six months next before the presentation of a bankruptcy petition by or against him, or, in the case of a receiving order made under section one hundred and seven of this Act, before the date of the order, or after the presentation of a bankruptcy petition and before the making of a receiving order, he obtains under the false pretence of carrying on business, and, if a trader, of dealing in the ordinary way of his trade, any property on credit and has not paid for the same, unless he proves that he had no intent to defraud;
- (15) If, within six months next before the presentation of a bankruptcy petition by or against him, or, in the case of a receiving order made under section one hundred and seven of this Act, before the date of the order, or after the presentation of a bankruptcy petition and before the making of a receiving order, he pawns, pledges, or disposes of any property which he has obtained on credit and has not paid for, unless, in the case of a trader, such pawning, pledging, or disposing is in the ordinary way of his trade, and unless in any case he proves that he had no intent to defraud;
- (16) If he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors or any of them to an agreement with reference to his affairs or to his bankruptcy.

For the purpose of this section, the expression "trustee" means the official receiver of the debtor's estate or trustee administering his estate for the benefit of his creditors.

155. Undischarged bankrupt obtaining credit.] Where an undischarged bankrupt—

- (a) either alone or jointly with any other person obtains credit to the extent of ten pounds or upwards from any person without informing that person that he is an undischarged bankrupt; or
- (b) engages in any trade or business under a name other than that under which he was adjudicated bankrupt without disclosing to all persons with whom he enters into any business transaction the name under which he was adjudicated bankrupt;

he shall be guilty of a misdemeanour.

156. Frauds by bankrupts, &c.] If any person who has been adjudged bankrupt or in respect of whose estate a receiving order has been made—

- (a) in incurring any debt or liability has obtained credit under false pretences or by means of any other fraud;
- (b) with intent to defraud his creditors or any of them, has made or caused to be made any gift or transfer of, or charge on, his property;
- (c) with intent to defraud his creditors, has concealed or removed any part of his property since, or within two months before, the date of any unsatisfied judgment or order for payment of money obtained against him;

he shall be guilty of a misdemeanour.

157. Bankrupt guilty of gambling, &c.] (1) Any person who has been adjudged bankrupt, or in respect of whose estate a receiving order has been made, shall be guilty of a misdemeanour, if, having been engaged in any trade or business, and having outstanding at the date of the receiving order any debts contracted in the course and for the purposes of such trade or business,—

- (a) he has, within two years prior to the presentation of the bankruptcy petition, materially contributed to or increased the extent of his insolvency by gambling or by rash and hazardous speculations, and such gambling or speculations are unconnected with his trade or business; or
- (b) he has, between the date of the presentation of the petition and the date of the receiving order, lost any part of his estate by such gambling or rash and hazardous speculations as aforesaid; or
- (c) on being required by the official receiver at any time, or in the course of his public examination by the court, to account for the loss of any substantial part of his estate incurred within a period of a year next preceding the date of the presentation of the bankruptcy petition, or between that date and the date of the receiving order, he fails to give a satisfactory explanation of the manner in which such loss was incurred;

Provided that, in determining for the purposes of this section whether any speculations were rash and hazardous, the financial position of the accused person at the time when he entered into the speculations shall be taken into consideration.

(2) A prosecution shall not be instituted against any person under this section except by order of the court, nor where the receiving order in the bankruptcy is made within two years from the first day of April nineteen hundred and fourteen.

(3) Where a receiving order is made against a person under section one hundred and seven of this Act, this section shall apply as if for references to the presentation of a petition there were substituted references to the making of the receiving order.

158. Bankrupt failing to keep proper accounts.] (1) If any person who has on any previous occasion been adjudged bankrupt or made a composition or arrangement with his creditors is adjudged bankrupt, or if a receiving order is made in respect of his estate, he shall be guilty of a misdemeanour, if, having during the whole or any part of the two years immediately preceding the date of the presentation of the bankruptcy petition been engaged in any trade or business, he has not kept proper books of account throughout those two years or such part thereof as aforesaid, and, if so engaged at the date of presentation of the petition, thereafter, whilst so engaged, up to the date of the receiving order, or has not preserved all books of account so kept;

Provided that a person who has not kept or has not preserved such books of account shall not be convicted of an offence under this section

if his unsecured liabilities at the date of the receiving order did not exceed one hundred pounds, or if he proves that in the circumstances in which he traded or carried on business the omission was honest and excusable.

(2) A prosecution shall not be instituted against any person under this section except by order of the court, nor where the receiving order in the bankruptcy is made within two years from the first day of April nineteen hundred and fourteen.

(3) For the purposes of this section, a person shall be deemed not to have kept proper books of account if he has not kept such books or accounts as are necessary to exhibit or explain his transactions and financial position in his trade or business, including a book or books containing entries from day to day in sufficient detail of all cash received and cash paid, and, where the trade or business has involved dealings in goods, also accounts of all goods sold and purchased, and statements of annual stock-takings.

(4) Paragraphs (9), (10), and (11) of section one hundred and fifty-four of this Act (which relate to the destruction, mutilation, and falsification and other fraudulent dealing with books and documents), shall, in their application to such books as aforesaid, have effect as if "two years next before the presentation of the bankruptcy petition" were substituted for the time mentioned in those paragraphs as the time prior to the presentation within which the acts or omissions specified in those paragraphs constitute an offence.

(5) Where a receiving order is made against a person under section one hundred and seven of this Act, this section shall apply as if for references to the presentation of a petition there were substituted references to the making of the receiving order.

159. Bankrupt absconding with property.]

If any person who is adjudged bankrupt, or in respect of whose estate a receiving order has been made, after the presentation of a bankruptcy petition by or against him, or within six months before such presentation, quits England and takes with him, or attempts or makes preparation to quit England and take with him, any part of his property to the amount of twenty pounds or upwards, which ought by law to be divided amongst his creditors, he shall (unless he proves that he had no intent to defraud) be guilty of felony.

160. False claim, &c.] If any creditor, or any person claiming to be a creditor, in any bankruptcy proceedings, wilfully and with intent to defraud makes any false claim, or any proof, declaration or statement of account, which is untrue in any material particular, he shall be guilty of a misdemeanour, and shall on conviction on indictment be liable to imprisonment with or without hard labour for a term not exceeding one year.

161. Order by court for prosecution on report of trustee.] Where an official receiver or a trustee in a bankruptcy reports to any court exercising jurisdiction in bankruptcy that in his opinion a debtor who has been adjudged bankrupt or in respect of whose estate a receiving order has been made has been guilty of any offence under this Act or any enactment repealed by this Act, or where the court is satisfied upon the representation of any creditor or member of the committee of inspection that there is ground to believe that the debtor has been guilty of any such offence, the court shall, if it appears to the court that there is a reasonable probability that the debtor will be convicted, order that the debtor be prosecuted for such offence.

Provided that it shall not be obligatory on the court in the absence of any application by the official receiver for such an order to make an order under this section for the prosecution of an offence, unless it appears to the court that the circumstances are such as to render a prosecution desirable.

162. Criminal liability after discharge or com-

position.] Where a debtor has been guilty of any criminal offence, he shall not be exempt from being proceeded against therefor by reason that he has obtained his discharge or that a composition or scheme of arrangement has been accepted or approved.

163. Power for court to commit for trial.]

(1) Where there is, in the opinion of the court, ground to believe that the bankrupt or any other person has been guilty of any offence which is by statute made a misdemeanour in cases of bankruptcy, the court may commit the bankrupt or such other person for trial.

(2) For the purpose of committing the bankrupt or such other person for trial, the court shall have all the powers of a stipendiary magistrate as to taking depositions, binding over witnesses to appear, admitting the accused to bail, or otherwise.

Nothing in this subsection shall be construed as derogating from the powers or jurisdiction of the High Court.

164. Trial and punishment of offences.] (1)

A person guilty of an offence declared to be a felony or a misdemeanour under this Act in respect of which no special penalty is imposed by this Act shall be liable, on conviction on indictment, to imprisonment with or without hard labour for a term not exceeding two years, or, on summary conviction, to imprisonment with or without hard labour for a term not exceeding six months.

Provided that the maximum term of imprisonment with or without hard labour which may be awarded on conviction on indictment of a misdemeanour under section one hundred and fifty-six of this Act shall be one year.

(2) Summary proceedings in respect of any such offence shall not be instituted after one year from the first discovery thereof either by the official receiver or by the trustee in the bankruptcy, or, in the case of proceedings instituted by a creditor, by the creditor, nor in any case shall they be instituted after three years from the commission of the offence.

(3) Every misdemeanour under this Act shall be deemed to be an offence under and subject to the provisions of the Vexatious Indictments Act, 1853 [22 & 23 Vict. c. 17], and any Act amending that Act, and when any person is charged with any such misdemeanour before a court of summary jurisdiction the court shall take into consideration any evidence adduced before them tending to show that the act charged was not committed with a guilty intent.

(4) In an indictment for an offence under this Act, it shall be sufficient to set forth the substance of the offence charged in the words of this Act specifying the offence, or as near thereto as circumstances admit, without alleging or setting forth any debt, act of bankruptcy, trading, adjudication, or any proceedings in, or order, warrant, or document of, any court acting under this Act or any Act repealed by this Act.

165. Public Prosecutor to act in certain cases.]

Where the court orders the prosecution of any person for any offence under this Act or any enactment repealed by this Act, or for any offence arising out of or connected with any bankruptcy proceedings, it shall be the duty of the Director of Public Prosecutions to institute and carry on the prosecution:

Provided that, where the order of the court is made on the application of the official receiver and based on his report, the Board of Trade may themselves, or through the official receiver, institute the prosecution and carry on the proceedings, if or so long as those proceedings are conducted before a court of summary jurisdiction, unless in the course thereof circumstances arise which, in the opinion of such court or of the Board, render it desirable that the remainder of the proceedings should be carried on by the Director of Public Prosecutions.

166. Evidence as to frauds by agents.] A statement or admission made by any person in any compulsory examination or deposition before any court on the hearing of any matter in bankruptcy shall not be admissible as evidence against

that person in any proceeding in respect of any of the misdemeanours referred to in section eighty-five of the Larceny Act, 1861 [24 & 25 Vict. c. 95], (which section relates to frauds by agents, bankers and factors).

PART VIII.

GENERAL.

Interpretation.

167. Interpretation.] In this Act, unless the context otherwise requires,—

"The court" means the court having jurisdiction in bankruptcy under this Act;

"Affidavit" includes statutory declaration, affirmation, and attestation on honour;

"Available act of bankruptcy" means any act of bankruptcy available for a bankruptcy petition at the date of the presentation of the petition on which the receiving order is made;

"Debt provable in bankruptcy" or "provable debt" includes any debt or liability by this Act made provable in bankruptcy;

"Gazette" means published in the London Gazette;

"General rules" include forms;

"Goods" includes all chattels personal;

"Local bank" means any bank in, or in the neighbourhood of, the bankruptcy district in which the proceedings are taken;

"Oath" includes affirmation, declaration, and attestation on honour.

"Ordinary resolution" means a resolution decided by a majority in value of the creditors present, personally or by proxy, at a meeting of creditors and voting on the resolution;

"Prescribed" means prescribed by general rules within the meaning of this Act;

"Property" includes money, goods, things in action, land, and every description of property, whether real or personal and whether situate in England or elsewhere; also obligations, easements, and every description of estate, interest, and profit, present or future, vested or contingent, arising out of or incident to property as above defined;

"Resolution" means ordinary resolution;

"Secured creditor" means a person holding a mortgage charge or lien on the property of the debtor, or any part thereof, as a security for a debt due to him from the debtor;

"Sheriff" includes any officer charged with the execution of a writ or other process;

"Special resolution" means a resolution decided by a majority in number and three-fourths in value of the creditors present, personally or by proxy, at a meeting of creditors and voting on the resolution;

"Trustee" means the trustee in bankruptcy of a debtor's estate.

Repeals.

168. Repeal of enactments and savings.] (1) The Acts mentioned in the Sixth Schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule.

(2) This Act shall apply to proceedings under the Bankruptcy Acts, 1883 to 1913, pending at the commencement of this Act, as if commenced under this Act.

(3) Until revoked or altered under the powers of this Act, any fees prescribed and any general rules and orders made under the Bankruptcy Acts, 1883 to 1913, and the Bankruptcy (Discharge and Closure) Act, 1887, which are in force at the commencement of this Act, shall continue in force, and shall have effect as if made under this Act.

(4) Nothing in the repeals effected by this Act shall affect the powers or duties, tenure of office, terms of remuneration, or right to pension, of any officer appointed before the commencement of this Act.

(5) Nothing in this Act shall affect any provisions of the Bankruptcy Acts, 1883 to 1913, relating to disqualifications on account of bankruptcy to executions or to the administration of small estates in county courts which are left unrepealed by this Act.

169. Short title, extent, and commencement.]
(1) This Act may be cited as the Bankruptcy Act, 1914.

(2) This Act shall not, except so far as is expressly provided, extend to Scotland or Ireland.

(3) This Act shall come into operation on the first day of January nineteen hundred and fifteen.

SCHEDULES.

THE FIRST SCHEDULE.

[Section 13.]

MEETINGS OF CREDITORS.

1. The first meeting of creditors shall be summoned for a day not later than fourteen days after the date of the receiving order, unless the court for any special reason deem it expedient that the meeting be summoned for a later day.

2. The official receiver shall summon the meeting by giving not less than six clear days' notice of the time and place thereof in the London Gazette and in a local paper.

3. The official receiver shall also, as soon as practicable, send to each creditor mentioned in the debtor's statement of affairs, a notice of the time and place of the first meeting of creditors, accompanied by a summary of the debtor's statement of affairs, including the cause of his failure, and any observations thereon which the official receiver may think fit to make; but the proceedings at the first meeting shall not be invalidated by reason of any such notice or summary not having been sent or received before the meeting.

4. The meeting shall be held at such place as is in the opinion of the official receiver most convenient for the majority of the creditors.

5. The official receiver or the trustee may at any time summon a meeting of creditors, and shall do so whenever so directed by the court, or so requested by a creditor in accordance with the provisions of this Act.

6. Meetings subsequent to the first meeting shall be summoned by sending notice of the time and place thereof to each creditor at the address given in his proof, or if he has not proved, at the address given in the debtor's statement of affairs, or at such other address as may be known to the person summoning the meeting.

7. The official receiver, or some person nominated by him, shall be the chairman at the first meeting. The chairman at subsequent meetings shall be such person as the meeting by resolution appoint.

8. A person shall not be entitled to vote as a creditor at the first or any other meeting of creditors unless he has duly proved a debt provable in bankruptcy to be due to him from the debtor, and the proof has been duly lodged before the time appointed for the meeting.

9. A creditor shall not vote at any such meeting in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained.

10. For the purpose of voting, a secured creditor shall, unless he surrenders his security, state in his proof the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him, after deducting the value of his security. If he votes in respect of his whole debt he shall be deemed to have surrendered his security unless the court on application is satisfied that the omission to value the security has arisen from inadvertence.

11. A creditor shall not vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him, unless he is willing to treat the liability to him thereon of

every person who is liable thereon antecedently to the debtor, and against whom a receiving order has not been made, as a security in his hands, and to estimate the value thereof, and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof.

12. It shall be competent to the trustee or to the official receiver, within twenty-eight days after a proof estimating the value of a security as aforesaid has been made use of in voting at any meeting, to require the creditor to give up the security for the benefit of the creditors generally on payment of the value so estimated, with an addition thereto of twenty per centum: Provided that where a creditor has put a value on such security, he may, at any time before he has been required to give up such security as aforesaid, correct such valuation by a new proof, and deduct such new value from his debt, but in that case such addition of twenty per centum shall not be made if the trustee requires the security to be given up.

13. If a receiving order is made against one partner of a firm, any creditor to whom that partner is indebted jointly with the other partners of the firm, or any of them, may prove his debt for the purpose of voting at any meeting of creditors, and shall be entitled to vote thereat.

14. The chairman of a meeting shall have power to admit or reject a proof for the purpose of voting, but his decision shall be subject to appeal to the court. If he is in doubt whether the proof of a creditor should be admitted or rejected he shall mark the proof as objected to and shall allow the creditor to vote, subject to the vote being declared invalid in the event of the objection being sustained.

15. A creditor may vote either in person or by proxy.

16. Every instrument of proxy shall be in the prescribed form, and shall be issued by the official receiver of the debtor's estate, or by some other official receiver, or, after the appointment of a trustee, by the trustee, and every insertion therein shall be in the handwriting of the person giving the proxy, or of any manager or clerk, or other person in his regular employment, or of any commissioner to administer oaths in the Supreme Court.

17. General and special forms of proxy shall be sent to the creditors, together with a notice summoning a meeting of creditors, and neither the name nor the description of the official receiver, or of any other person, shall be printed or inserted in the body of any instrument of proxy before it is so sent.

18. A creditor may give a general proxy to his manager or clerk, or any other person in his regular employment. In such case the instrument of proxy shall state the relation in which the person to act thereunder stands to the creditor.

19. A creditor may give a special proxy to any person to vote at any specified meeting or adjournment thereof on all or any of the following matters:—

(a) For or against any specific proposal for a composition or scheme of arrangement;

(b) For or against the appointment of any specified person as trustee at a specified rate of remuneration, or as member of the committee of inspection, or for or against the continuance in office of any specified person as trustee or member of a committee of inspection;

(c) On all questions relating to any matter other than those above referred to, arising at any specified meeting or adjournment thereof.

20. A proxy shall not be used unless it is deposited with the official receiver or trustee before the meeting at which it is to be used.

21. Where it appears to the satisfaction of the court that any solicitation has been used by or on behalf of a trustee or receiver in obtaining proxies, or in procuring the trusteeship or receivership, except by the direction of a meeting

of creditors, the court shall have power, if it thinks fit, to order that no remuneration shall be allowed to the person by whom or on whose behalf such solicitation may have been exercised, notwithstanding any resolution of the committee of inspection or of the creditors to the contrary.

22. A creditor may appoint the official receiver of the debtor's estate to act in manner prescribed as his general or special proxy.

23. The chairman of a meeting may, with the consent of the meeting, adjourn the meeting from time to time and from place to place.

24. A meeting shall not be competent to act for any purpose, except the election of a chairman, the proving of debts, and the adjournment of the meeting, unless there are present, or represented thereat, at least three creditors, or all the creditors if their number does not exceed three.

25. If within half an hour from the time appointed for the meeting a quorum of creditors is not present or represented, the meeting shall be adjourned to the same day in the following week at the same time and place, or to such other day as the chairman may appoint, not being less than seven nor more than twenty-one days.

26. The chairman of every meeting shall cause minutes of the proceedings at the meeting to be drawn up and fairly entered in a book kept for that purpose, and the minutes shall be signed by him or by the chairman of the next ensuing meeting.

27. No person acting either under a general or special proxy shall vote in favour of any resolution which would directly or indirectly place himself, his partner or employer, in a position to receive any remuneration out of the estate of the debtor otherwise than as a creditor rateably with the other creditors of the debtor: Provided that where any person holds special proxies to vote for the appointment of himself as trustee he may use the said proxies and vote accordingly.

28. The vote of the trustee, or of his partner, clerk, solicitor, or solicitor's clerk, either as creditor or as proxy for a creditor, shall not be reckoned in the majority required for passing any resolution affecting the remuneration or conduct of the trustee.

THE SECOND SCHEDULE.

[Section 32.]

PROOF OF DEBTS.

Proof in ordinary cases.

1. Every creditor shall prove his debt as soon as may be after the making of a receiving order.

2. A debt may be proved by delivering or sending through the post in a prepaid letter to the official receiver, or, if a trustee has been appointed, to the trustee, an affidavit verifying the debt.

3. The affidavit may be made by the creditor himself, or by some person authorised by or on behalf of the creditor. If made by a person so authorised it shall state his authority and means of knowledge.

4. The affidavit shall contain or refer to a statement of account showing the particulars of the debt, and shall specify the vouchers, if any, by which the same can be substantiated. The official receiver or trustee may at any time call for the production of the vouchers.

5. The affidavit shall state whether the creditor is or is not a secured creditor.

6. A creditor shall bear the cost of proving his debt, unless the court otherwise specially orders.

7. Every creditor who has lodged a proof shall be entitled to see and examine the proofs of other creditors before the first meeting, and at all reasonable times.

8. A creditor proving his debt shall deduct therefrom all trade discounts, but he shall not be compelled to deduct any discount, not exceeding five per centum on the net amount of his claim, which he may have agreed to allow for payment in cash.

9. Formal proof of debts in respect of contribu-

tions payable under the National Insurance Act, 1911 (1 & 2 Geo. 5, c. 55), to which priority is given by this Act, shall not be required except in cases where it may otherwise be provided by rules under this Act.

Proof by secured Creditors.

10. If a secured creditor realises his security, he may prove for the balance due to him, after deducting the net amount realised.

11. If a secured creditor surrenders his security to the official receiver or trustee for the general benefit of the creditors, he may prove for his whole debt.

12. If a secured creditor does not either realise or surrender his security, he shall, before ranking for dividend, state in his proof the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to receive a dividend only in respect of the balance due to him after deducting the value so assessed.

13.—(a) Where a security is so valued the trustee may at any time redeem it on payment to the creditor of the assessed value.

(b) If the trustee is dissatisfied with the value at which a security is assessed, he may require that the property comprised in any security so valued be offered for sale at such times and on such terms and conditions as may be agreed on between the creditor and the trustee, or as, in default of such agreement, the court may direct. If the sale be by public auction the creditor, or the trustee on behalf of the estate, may bid or purchase.

(c) Provided that the creditor may at any time, by notice in writing, require the trustee to elect whether he will or will not exercise his power of redeeming the security or requiring it to be realised, and if the trustee does not, within six months after receiving the notice, signify in writing to the creditor his election to exercise the power, he shall not be entitled to exercise it; and the equity of redemption, or any other interest in the property comprised in the security which is vested in the trustee shall vest in the creditor, and the amount of his debt shall be reduced by the amount at which the security has been valued.

14. Where a creditor has so valued his security, he may at any time amend the valuation and proof on showing to the satisfaction of the trustee, or the court, that the valuation and proof were made bona fide on a mistaken estimate, or that the security has diminished or increased in value since its previous valuation; but every such amendment shall be made at the cost of the creditor, and upon such terms as the court shall order, unless the trustee shall allow the amendment without application to the court.

15. Where a valuation has been amended in accordance with the foregoing rule, the creditor shall forthwith repay any surplus dividend which he may have received in excess of that to which he would have been entitled on the amended valuation, or, as the case may be, shall be entitled to be paid out of any money, for the time being available for dividend, any dividend or share of dividend which he may have failed to receive by reason of the inaccuracy of the original valuation, before that money is made applicable to the payment of any future dividend, but he shall not be entitled to disturb the distribution of any dividend declared before the date of the amendment.

16. If a creditor after having valued his security subsequently realises it, or if it is realised under the provisions of rule 13, the net amount realised shall be substituted for the amount of any valuation previously made by the creditor, and shall be treated in all respects as an amended valuation made by the creditor.

17. If a secured creditor does not comply with the foregoing rules he shall be excluded from all share in any dividend.

18. Subject to the provisions of rule 13, a creditor shall in no case receive more than twenty shillings in the pound, and interest as provided by this Act.

Proof in respect of Distinct Contracts.

19. If a debtor was, at the date of the receiving order, liable in respect of distinct contracts as a member of two or more distinct firms, or as a sole contractor, and also as member of a firm, the circumstances that the firms are in whole or in part composed of the same individuals, or that the sole contractor is also one of the joint contractors, shall not prevent proof in respect of the contracts, against the properties respectively liable on the contracts.

Periodical Payments.

20. When any rent or other payment falls due at stated periods, and the receiving order is made at any time other than one of those periods, the person entitled to the rent or payment may prove for a proportionate part thereof up to the date of the order as if the rent or payment grew due from day to day.

Interest.

21. On any debt or sum certain, payable at a certain time or otherwise, whereon interest is not reserved or agreed for, and which is overdue at the date of the receiving order and provable in bankruptcy, the creditor may prove for interest at a rate not exceeding four per centum per annum to the date of the order from the time when the debt or sum was payable, if the debt or sum is payable by virtue of a written instrument at a certain time, and if payable otherwise, then from the time when a demand in writing has been made giving the debtor notice that interest will be claimed from the date of the demand until the time of payment.

Debt payable at a future time.

22. A creditor may prove for a debt not payable when the debtor committed an act of bankruptcy as if it were payable presently, and may receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the rate of five pounds per centum per annum computed from the declaration of a dividend to the time when the debt would have become payable, according to the terms on which it was contracted.

Admission or Rejection of Proofs.

23. The trustee shall examine every proof and the grounds of the debt, and in writing admit or reject it, in whole or in part, or require further evidence in support of it. If he rejects a proof he shall state in writing to the creditor the grounds of the rejection.

24. If the trustee thinks that a proof has been improperly admitted, the court may, on the application of the trustee, after notice to the creditor who made the proof, expunge the proof or reduce its amount.

25. If a creditor is dissatisfied with the decision of the trustee in respect of a proof, the court may, on the application of the creditor, reverse or vary the decision.

26. The court may also expunge or reduce a proof upon the application of a creditor if the trustee declines to interfere in the matter, or, in the case of a composition or scheme, upon the application of the debtor.

27. For the purpose of any of his duties in relation to proofs, the trustee may administer oaths and take affidavits.

28. The official receiver, before the appointment of a trustee, shall have all the powers of a trustee with respect to the examination, admission, and rejection of proofs, and any act or decision of his in relation thereto shall be subject to the like appeal.

THE THIRD SCHEDULE.

[Section 99.]

LIST OF METROPOLITAN COUNTY COURTS.

The Bloomsbury County Court of Middlesex.
The Bow County Court of Middlesex.
The Brompton County Court of Middlesex.

The Clerkenwell County Court of Middlesex.
The Lambeth County Court of Surrey.
The Marylebone County Court of Middlesex.
The Shoreditch County Court of Middlesex.
The Southwark County Court of Surrey.
The Westminster County Court of Middlesex.
The Whitechapel County Court of Middlesex.

THE FOURTH SCHEDULE.

• [Section 131.]

RE-ENACTMENT OF PROVISIONS RELATING TO PRE-1884 BANKRUPTCIES.

46 & 47 Vict. c. 52. s. 153 (4) & (5):—(4) On the occurrence at any time after the passing of this Act of any vacancy in the office of any person who has under subsection (4) of section one hundred and fifty-three of the Bankruptcy Act, 1883, been appointed to perform the remaining duties of any of the officers mentioned in subsection (2) of that section, the Board of Trade may, with the approval of the Treasury, appoint a fit person to fill the vacancy, and all estates, rights and effects, which at the time of the vacancy are by virtue of the said section vested in the officer whose office is so vacated, shall by virtue of such appointment, become vested in the person so appointed, provided that any person so appointed shall be an officer of the Board of Trade, and shall in all respects act under the directions of the Board of Trade.

(5) The Board of Trade may, with the approval of the Lord Chancellor, from time to time direct that any duties or functions not of a judicial character relating to any bankruptcies, insolvencies, or other proceedings under any Act prior to the Bankruptcy Act, 1869, which were at the time of the passing of the Bankruptcy Act, 1863, performed or exercised by registrars of county courts, shall devolve on and be performed by the official receiver, and thereupon all powers and authorities of the registrar, and all estates, rights and effects vested in the registrar shall become vested in the official receiver.

s. 159:—In every liquidation by arrangement under the Bankruptcy Act, 1869, which was pending at the commencement of the Bankruptcy Act, 1883, if at any time there is no trustee acting under the liquidation by reason of death or for any other cause, such of the official receivers of bankrupts' estates as is appointed by the Board of Trade for that purpose shall become and be the trustee in the liquidation, and the property of the liquidating debtor shall pass to and vest in him accordingly; but this provision shall not prejudice the right of the creditors in the liquidation to appoint a new trustee in the manner directed by the Bankruptcy Act, 1869, or the rules thereunder; and on such appointment the property of the liquidating debtor shall pass to and vest in the new trustee.

The provisions of this Act with respect to the duties and responsibilities of and accounting by a trustee in a bankruptcy under this Act shall apply, as nearly as may be, to a trustee acting under the provisions of this section.

s. 160:—Where a bankruptcy or liquidation by arrangement under the Bankruptcy Act, 1869, has been or is hereafter closed, any property of the bankrupt or liquidating debtor which vested in the trustee and has not been realised or distributed shall vest in such person as may be appointed by the Board of Trade for that purpose and he shall thereupon proceed to get in, realise, and distribute the property in like manner and with and subject to the like powers and obligations, as far as applicable, as if the bankruptcy or liquidation were continuing and he were acting as trustee thereunder.

s. 161:—In every bankruptcy under the Bankruptcy Act, 1869, pending at the commencement of the Bankruptcy Act, 1883, where a registrar of the London Bankruptcy Court or of any county court would hereafter but for this enactment become the trustee under the bankruptcy, such of the official receivers of bankrupts' estates as

may be appointed by the Board of Trade for that purpose shall be the trustee in the place of the registrar, and the property of the bankrupt shall pass to and vest in the Official Receiver accordingly.

50 & 51 Vict. c. 66, s. 2:—(1) A debtor who has been adjudged bankrupt, or whose affairs have been liquidated by arrangement under the Bankruptcy Act, 1869, or any previous Bankruptcy Act, and who has not obtained his discharge, may apply to the court for an order of discharge, and thereupon the court shall appoint a day for hearing the application in open court.

(2) Notice of the appointment by the court of the day for hearing the application for discharge shall, twenty-one days at least before the day so appointed, be sent by the debtor to each creditor who has proved in the bankruptcy or liquidation, or to those of them whose addresses appear in the debtor's statement of affairs or are known to the debtor, and shall also, fourteen days at least before the day so appointed, be published in the "London Gazette."

(3) On the hearing of the application the court may hear any creditor, and may put such questions to the debtor and receive such evidence as the court thinks fit, and, on being satisfied that the notice required by this section has been duly sent and published, may either grant or refuse the order of discharge or suspend the operation of the order for a specified time, or grant the order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the debtor, or with respect to his after-acquired property:

Provided that the court shall refuse the discharge in all cases where the court is satisfied by evidence that the debtor has committed any misdemeanour under Part II. of the Debtors Act, 1869, or any amendment thereof.

(4) The court may, as one of the conditions referred to in this section, require the debtor to consent to judgment being entered against him in the court having jurisdiction in the bankruptcy or liquidation by the official receiver of the court, or the trustee or assignee in the bankruptcy or liquidation, for any balance of the debts provable under the bankruptcy or liquidation which is not satisfied at the date of the discharge, or for such sum as the court shall think fit, but in such case execution shall not be issued on the judgment without the leave of the court, which leave may be given on proof that the debtor has since his discharge acquired property or income available for payment of his debts.

(5) A discharge granted under this section shall have the same effect as if it had been granted in pursuance of the Act under which the debtor was adjudged bankrupt or liquidated his affairs by arrangement.

s. 4:—(1) In each of the following cases, that is to say—

- (a) Any insolvency under any Act for the relief of insolvent debtors;
- (b) Any commission, fiat, or adjudication in bankruptcy within the jurisdiction of the old London Bankruptcy Court, under any Act prior to the Bankruptcy Act, 1869;
- (c) Any administration by way of arrangement pursuant to an Act of the session held in the seventh and eighth years of the reign of Her Majesty Queen Victoria, chapter seventy, entitled "An Act for facilitating arrangements between Debtors and Creditors," or pursuant to the provisions of the Bankrupt Law Consolidation Act, 1849, or the hundred and ninety-second section of the Bankruptcy Act, 1861, within the jurisdiction of the old London Bankruptcy Court;

in which the estate is now vested in a creditors' assignee, or trustee, or inspector, either alone or jointly with the official assignee, the court may at any time, upon the application of any creditor and upon being satisfied that there is good ground for removing such creditors' assignee, trustee, or inspector, or in any other case in which it shall

appear to the court just or expedient, appoint the official assignee or any person appointed under the one hundred and fifty-third section of the Bankruptcy Act, 1863, to perform the remaining duties of the office of official assignee to be sole assignee, or trustee, or inspector of the estate in the place of such creditors' assignee, trustee, or inspector, as the case may be.

(2) Such appointment shall operate as a removal of the creditors' assignee, trustee, or inspector of the estate, and shall vest the whole of the property of the bankrupt or debtor in the official assignee or person appointed by the Board of Trade, as aforesaid, alone; and all estate, rights, powers, and duties of such former creditors' assignee, trustee, or inspector shall thereupon vest in and devolve upon the official assignee or person appointed by the Board of Trade, as aforesaid, alone.

s. 6:—(1) Where on the close of a bankruptcy or liquidation, or on the release of a trustee, a registrar or official receiver or official assignee is or is acting as trustee, and where under section one hundred and fifty-nine, section one hundred and sixty, or section one hundred and sixty-one of the Bankruptcy Act, 1863, either as originally enacted or as re-enacted in this schedule, an official receiver is or is acting as trustee, no liability shall attach to him personally in respect of any act done, or default made, or liability incurred by any prior trustee.

(2) Section ninety-three of this Act (which section relates to the release of a trustee) shall, with the exception of subsection five thereof, apply to an official receiver or an official assignee when he is or is acting as trustee, and when an official receiver or official assignee has been released under that section, he shall continue to act as trustee for any subsequent purposes of the administration of the debtors' estate, but no liability shall attach to him personally by reason of his so continuing in respect of any act done, default made, or liability incurred, before his release.

s. 7:—All books and papers in the custody of an official receiver or official assignee or of the Acting Comptroller in Bankruptcy, and relating to any bankruptcy under the Bankruptcy Act, 1869, may, on the expiration of one year after the close of the bankruptcy, be disposed of in accordance with rules made under section one of the Public Records Office Act, 1877, and that section shall apply accordingly.

s. 8:—(1) General rules for carrying into effect the objects of the foregoing sections of the Bankruptcy (Discharge and Closure) Act, 1887, as re-enacted in this Schedule, may from time to time be made, revoked, or altered by the same authority, and subject to the same provisions as general rules carrying into effect the objects of this Act.

(2) There shall be paid in respect of proceedings under such foregoing sections such fees as the Lord Chancellor may, with the sanction of the Treasury, from time to time prescribe, and the Treasury may direct by whom, and in what manner the same are to be collected and accounted for, and to what account they are to be paid.

THE FIFTH SCHEDULE.

[Section 153.]

STATUTES RELATING TO UNCLAIMED DIVIDENDS.

Session and Chapter.	Title of Act.
7 & 8 Vict., c. 70	An Act for facilitating arrangements between debtors and creditors.
12 & 13 Vict., c. 106.	The Bankruptcy Law Consolidation Act, 1849.
24 & 25 Vict., c. 134.	The Bankruptcy Act, 1861.
32 & 33 Vict., c. 71.	The Bankruptcy Act, 1869.

THE SIXTH SCHEDULE.

[Section 168.]

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
2 & 33 Vict., c. 62.	The Debtors Act, 1869.	Sections eleven, twelve, fourteen, fifteen, and sixteen.
45 & 46 Vict., c. 75.	The Married Women's Property Act, 1882.	Subsection (5) of section one, and section three so far as they relate to England and Wales.
46 & 47 Vict., c. 52.	The Bankruptcy Act, 1883.	The whole Act, except sections one, two, thirty-two, thirty-three, thirty-four, one hundred and twenty-two, one hundred and forty-five, and one hundred and forty-six, and except sections forty-two and one hundred and twenty-seven so far as they relate to cases of orders under section one hundred and twenty-two of the said Act.
47 & 48 Vict., c. 9.	The Bankruptcy Appeals (County Courts) Act, 1884.	The whole Act.
48 & 49 Vict., c. 47.	The Bankruptcy (Office Accommodation) Act, 1885.	The whole Act.
49 & 50 Vict., c. 12.	The Bankruptcy (Office Accommodation) Act, 1886.	The whole Act.
50 & 51 Vict., c. 66.	The Bankruptcy (Discharge and Closure) Act, 1887.	The whole Act.
51 & 52 Vict., c. 62.	The Preferential Payments in Bankruptcy Act, 1888.	The whole Act so far as unrepealed.
53 & 54 Vict., c. 71.	The Bankruptcy Act, 1890.	The whole Act, except sections nine, twelve, and twenty-five, and subsection one of section thirty-one, and except section twenty-eight so far as it relates to cases of orders under section one hundred and twenty-two of the Bankruptcy Act, 1883.
54 & 55 Vict., c. 21.	The Savings Banks Act, 1891.	Section thirteen.

Session and Chapter.	Short Title.	Extent of Repeal.
3 & 4 Geo. 5., c. 34.	The Bankruptcy Act, 1913.	Part I. (except sections fifteen and twenty-seven, and except subsection (1) of section eighteen so far as it relates to cases of orders under section one hundred and twenty-two of the Bankruptcy Act, 1883), and in section forty-two the words from "and Part I. of this Act" to "the Bankruptcy Act, 1883 to 1913," and subsection (3) Schedule I., and (except so far as it amends section twenty-five of the Bankruptcy Act, 1890) Schedule II.

CHAPTER 60.

[WAR LOAN ACT, 1914.]

An Act to provide for raising money for the present War.

[28th August, 1914.]

CHAPTER 61.

[SPECIAL CONSTABLES ACT, 1914.]

An Act to enable His Majesty, by Order in Council, to make Regulations with respect to Special Constables appointed during the present War.

[28th August, 1914.]

[Printed, 58 SOLICITORS' JOURNAL, p. 841.]

CHAPTER 62.

[ISLE OF MAN (WAR LEGISLATION) ACT, 1914.]

An Act to enable His Majesty, by Order in Council, to extend to the Isle of Man Acts passed in connection with the present War.

[28th August, 1914.]

CHAPTER 63.

[DEFENCE OF THE REALM (No. 2) ACT, 1914.]

An Act to amend the Defence of the Realm Act, 1914.

[28th August, 1914.]

[Printed, 58 SOLICITORS' JOURNAL, p. 841.]

CHAPTER 64.

[CUSTOMS (EXPORTATION PROHIBITION) ACT, 1914.]

An Act to extend and amend section eight of the Customs and Inland Revenue Act, 1879.

[28th August, 1914.]

[Printed, 58 SOLICITORS' JOURNAL, p. 841.]

CHAPTER 65.

[ARTICLES OF COMMERCE (RETURNS, &c.), ACT, 1914.]

An Act to give Powers in connection with the present War to obtain information as to Stocks of Articles of Commerce, and for

enabling Possession to be taken of any such Articles unreasonably withheld.

[28th August, 1914.]

[Printed, 58 SOLICITORS' JOURNAL, p. 811.]

CHAPTER 66.

[ELEMENTARY SCHOOL TEACHERS (WAR SERVICE SUPERANNUATION) ACT, 1914.]

An Act to enable Certificated Teachers to reckon Service in connection with the present War as recorded Service for the purpose of the Acts relating to Elementary School Teachers' Superannuation.

[28th August, 1914.]

CHAPTER 67.

[EDUCATION (SCOTLAND) (WAR SERVICE SUPERANNUATION) ACT, 1914.]

An Act to authorise an amendment of the Superannuation Scheme for Teachers in Scotland for the purpose of enabling service in connection with the present War to be reckoned as recorded service under the Scheme.

[28th August, 1914.]

CHAPTER 68.

[EDUCATION (SCOTLAND) (PROVISION OF MEALS) ACT, 1914.]

An Act to remove doubts as to the interpretation of the Education (Scotland) Act, 1908, in regard to the provision of meals for school children.

[28th August, 1914.]

CHAPTER 69.

[POLICE (SCOTLAND) (LIMIT OF AGE) ACT, 1914.]

An Act to amend the provisions of the Acts relating to the Police in Scotland during the continuance of the present War with respect to age at date of appointment to a police force.

[28th August, 1914.]

CHAPTER 70.

[NAVAL BILLETING, &c., ACT, 1914.]

An Act to extend to the Naval Forces the provisions of the Army Act relating to the Billeting, and Impressment of Carriages, &c., in cases of emergency.

[28th August, 1914.]

[Printed, 58 SOLICITORS' JOURNAL, p. 811.]

CHAPTER 71.

[HOUSING (No. 2) (AMENDMENT) ACT, 1914.]

An Act to extend the Housing (No. 2) Act, 1914, to Ireland.

[28th August, 1914.]

CHAPTER 72.

[CURRENCY AND BANK NOTES (AMENDMENT) ACT, 1914.]

An Act to amend the Currency and Bank Notes Act, 1914.

[28th August, 1914.]

[Printed, 58 SOLICITORS' JOURNAL, p. 841.]

CHAPTER 73.

[PATENTS, DESIGNS, AND TRADE MARKS TEMPORARY RULES (AMENDMENT) ACT, 1914.]

An Act to amend the Patents, Designs, and Trade Marks (Temporary Rules) Act, 1914.

[28th August, 1914.]

[Printed, 58 SOLICITORS' JOURNAL, p. 812.]

CHAPTER 74.

[LOCAL GOVERNMENT (ADJUSTMENTS) (SCOTLAND) ACT, 1914.]

An Act to amend the Law relating to the Adjustment of Financial Relations between Local Government Areas in Scotland on the alteration of the Boundaries thereof.

[28th August, 1914.]

CHAPTER 75.

[SLAUGHTER OF ANIMALS ACT, 1914.]

An Act to authorise the regulation and restriction of the slaughter of animals used for food.

[31st August, 1914.]

Be it enacted, &c.:

1. *Power to restrict slaughter.* The Board of Agriculture and Fisheries may, for the purpose of maintaining a sufficient breeding stock, by Order regulate and restrict the slaughter in England and Wales, either generally or in any particular area, of animals used for human food, and may revoke, extend, or vary any Order so made, but any Order shall cease to operate at the expiration of one year from the passing of this Act except in relation to proceedings for any offence committed before such expiration.

2. *Application to Scotland and Ireland.* This Act shall apply to Scotland and Ireland with the substitution for the Board of Agriculture and Fisheries of the Board of Agriculture for Scotland and the Department of Agriculture and Technical Instruction for Ireland respectively.

3. *Offences.* If any person acts in contravention of, or fails to comply with, any provision of an Order made under this Act he shall be liable upon summary conviction to a fine not exceeding twenty pounds; or, if the offence is committed with respect to more than four animals, to a fine not exceeding five pounds for each animal.

4. *Short title.* This Act may be cited as the Slaughter of Animals Act, 1914.

CHAPTER 76.

[DEATH DUTIES (KILLED IN WAR) ACT, 1914.]

An Act to extend and vary as respects the present War the relief from Death Duties given under section fourteen of the Finance Act, 1900.

[31st August, 1914.]

[Printed, 58 SOLICITORS' JOURNAL, p. 811.]

CHAPTER 77.

[INTOXICATING LIQUOR (TEMPORARY RESTRICTION) ACT, 1914.]

An Act to enable orders to be made in connection with the present War for restricting the sale or consumption of intoxicating liquor.

[31st August, 1914.]

[Printed, 58 SOLICITORS' JOURNAL, p. 841.]

CHAPTER 78.

[COURTS (EMERGENCY POWERS) ACT, 1914.]

An Act to give, in connection with the present War, further powers to Courts in relation to the remedies for the recovery of money, and in relation to other similar matters.

[31st August, 1914.]

[Printed, 58 SOLICITORS' JOURNAL, p. 821.]

CHAPTER 79.

[PRIZE COURTS (EGYPT, ZANZIBAR, AND CYPRUS) ACT, 1914.]

An Act to provide for the exercise of Prize Jurisdiction by certain British Courts in Egypt, Zanzibar, and Cyprus, in respect of the present War.

[18th September, 1914.]

CHAPTER 80.

[POLICE CONSTABLES (NAVAL AND MILITARY SERVICE) ACT, 1914.]

An Act to amend the Police Reservists (Allowances) Act, 1914, and to extend the provisions of that Act and certain other enactments relating to police reservists to certain constables not being reservists.

[18th September, 1914.]

CHAPTER 31.

[NATIONAL INSURANCE (NAVY AND ARMY) ACT, 1914.]

An Act to amend section forty-six of the National Insurance Act, 1911, as respects certain officers, warrant officers, and soldiers.

[18th September, 1914.]

Be it enacted, &c. :

1. *Extension of section 46 of 1 and 2 Geo. 5, c. 55.* Section forty-six of the National Insurance Act, 1911, shall apply, and shall be deemed always to have applied, to soldiers specially enlisted for the purposes of the present war, and to all persons who, being previously insured, serve during the present war as commissioned or warrant officers of the naval reserves, or officers of the reserve or of the territorial force, or are granted temporary commissions in the regular forces during the continuance of the present war, as it applies to men of the territorial forces called out on embodiment.

2. *Short title.* This Act may be cited as the National Insurance (Navy and Army) Act, 1914.

CHAPTER 82.

[BILLS OF EXCHANGE ACT, 1914.]

An Act to make provision in connection with the present War with respect to Bills of Exchange payable outside the British Islands.

[18th September, 1914.]

[Printed, 58 SOLICITORS' JOURNAL, p. 865.]

CHAPTER 83.

[ARMY PENSIONS ACT, 1914.]

An Act to enable the Army Council to fix the mode of payment of Military Pensions.

[18th September, 1914.]

CHAPTER 84.

[IRISH POLICE CONSTABLES (NAVAL AND MILITARY SERVICE) ACT, 1914.]

An Act to make provision with respect to Constables of the Royal Irish Constabulary and Dublin Metropolitan Police who are Reservists or join the Naval or Military Forces.

[18th September, 1914.]

CHAPTER 85.

[RATES (PROCEEDINGS FOR RECOVERY) ACT, 1914.]

An Act to extend the time within which proceedings may be taken for the recovery of Rates.

[18th September, 1914.]

[Printed, 58 SOLICITORS' JOURNAL, p. 842.]

CHAPTER 86.

[SUPERANNUATION ACT, 1914.]

An Act to amend the Superannuation Acts, 1834 to 1909.

[18th September, 1914.]

Be it enacted, &c. :

1. *Distribution of gratuities without probate in certain cases.* Where the Treasury has

decided to grant a gratuity to the legal personal representatives of a deceased civil servant under section two or section three of the Superannuation Act, 1909 (9 Edw. 7, c. 10), probate or other proof of the title of the personal representatives of the deceased may be dispensed with and the gratuity paid or distributed in manner provided by section eight of the Superannuation Act, 1887 (50 and 51 Vict. c. 67), and that section shall apply accordingly as if such gratuity as aforesaid were a sum due to the deceased at the time of his death in respect of superannuation allowance.

2. *Amendment of s. 2 (1) of Act of 1909.* The amount of the gratuity which may be granted under subsection (1) of section two of the Superannuation Act, 1909, to the legal personal representatives of a civil servant who dies whilst still employed in the service shall be either the amount specified in that subsection or an amount equal to the amount of the additional allowance which the Treasury might have granted to him if he had retired from the civil service on the ground of ill-health at the date of his death, whichever may be the greater.

3. *Amendment to s. 4 of Act of 1887.* If any person dies while in his employment, being a person to whom a gratuity might have been granted under section four of the Superannuation Act, 1887, if at the time of his death he had retired from such employment because of infirmity of mind or body, the Treasury may, if they think fit, grant to his dependants such compassionate gratuity as they might have granted to the deceased person had he so retired.

4. *Power to grant superannuation allowances to civil servants transferred to other employment in certain cases.* (1) If a civil servant has been before the passing of this Act or is thereafter transferred, with the consent of the head officer of his department, to employment which is approved employment within the meaning of this section, it shall be lawful, upon his retirement from that employment under conditions which would have entitled him to any superannuation allowance, additional allowance, or gratuity had he continued to be employed as a civil servant, for the Treasury, if the head officer of the department in which he was serving at the time of transfer makes a recommendation to that effect, to grant to him, out of moneys provided by Parliament, such superannuation allowance, additional allowance, or gratuity as might have been granted to him if, at the date of transfer, he had retired from the Civil Service on the ground of ill-health.

(2) For the purposes of this section "approved employment" means employment, whether within or without His Majesty's Dominions (not being employment in a public office within the meaning of the Superannuation Act, 1892 (55 and 56 Vict. c. 40), service in which qualifies for the grant of a superannuation allowance), which is recognised by the head officer of the department in which the civil servant was serving at the time of transfer, and by the Treasury, as being employment to which it is expedient that the provisions of this section should apply.

(3) Section twelve of the Superannuation Act, 1859 (22 Vict. c. 26), is hereby repealed, but nothing in this repeal shall affect the rights of any officer who, before the passing of this Act, has been transferred from employment entitling him to a superannuation allowance to public employment under the Crown not so entitling him, nor shall this repeal affect the said section as applied by any other enactment.

5. *Repeal of s. 4 of the Act of 1859 and s. 3 of the Act of 1884 as to added years.* Section four of the Superannuation Act, 1859, and section three of the Superannuation Act, 1884 (47 and 48 Vict. 57) (which relate to superannuation allowances of persons holding professional and other

special offices), are hereby repealed, but nothing in this repeal shall affect the rights of any person who, before the date of the passing of this Act has been appointed to an office to which an order, warrant, or minute of the Treasury, issued under either of the said sections, applied.

6. *Repeal of s. 7 (2) of the Act of 1887.* Subsection (2) of section seven of the Superannuation Act, 1887 (which provides for the reduction of the pension, superannuation, and other allowance payable to a person when that person is or becomes a lunatic towards whose maintenance a contribution is made out of moneys provided by Parliament), is hereby repealed.

7. *Short title.* This Act may be cited as the Superannuation Act, 1914; and the Superannuation Acts, 1834 to 1909, and this Act may be cited together as the Superannuation Acts, 1834 to 1914.

CHAPTER 87.

[TRADING WITH THE ENEMY ACT, 1914.]

An Act to make provision with respect to penalties for Trading with the Enemy, and other purposes connected therewith.

[18th September, 1914.]

[Printed, 58 SOLICITORS' JOURNAL, p. 842.]

CHAPTER 88.

[SUSPENSORY ACT, 1914.]

An Act to suspend the operation of the Government of Ireland Act, 1914, and the Welsh Church Act, 1914.

[18th September, 1914.]

CHAPTER 89.

[NAVY (PLEDGING OF CERTIFICATES, &c.) ACT, 1914.]

An Act to prevent the Disposal or Pledging of Certificates, Naval Uniforms, or other Property, and for purposes connected therewith.

[18th September, 1914.]

Be it enacted, &c. :

1. *Application to navy of provisions of Army Act as to pledging of uniforms, certificates, &c.* Section one hundred and fifty-six of the Army Act (which imposes a penalty on purchasing from soldiers regimental necessaries, equipments, stores, &c.) shall apply to persons serving in the naval forces of the Crown as it applies to soldiers, with such adaptations as the Admiralty may by regulations prescribe; and the Admiralty may by those regulations extend the application of subsection nine of the said section so as to make it applicable to any certificate relating to the service of any person serving in the naval forces of the Crown.

2. *Short title.* This Act may be cited as the Navy (Pledging of Certificates, &c.) Act, 1914.

CHAPTER 90.

[GOVERNMENT OF IRELAND ACT, 1914.]

An Act to amend the provision for the Government of Ireland.

[18th September, 1914.]

CHAPTER 91.

[WELSH CHURCH ACT, 1914.]

An Act to terminate the establishment of the Church of England in Wales and Monmouthshire, and to make provision in respect of the Temporalities thereof, and for other purposes in connection with the matters aforesaid.

[18th September, 1914.]

STATUTES

Enacted in the Second Session of Parliament, 1914.

5 GEO. 5.

CHAPTER 1.

[ANGLO-PORTUGUESE COMMERCIAL TREATY ACT, 1914.]

An Act to make such provisions as are necessary to enable the Anglo-Portuguese Commercial Treaty to come into force.

[27th November, 1914.]

Whereas His Majesty the King and the President of the Portuguese Republic have concluded the treaty of commerce and navigation set out in the Schedule to this Act, and by the final protocol appended thereto, it is provided that the treaty shall not come into force until the sanction of Parliament to article six thereof has been obtained:

Be it therefore enacted, &c.:

1. *Meaning of "port" and "madeira" as applied to wine.* The description "port" or "madeira" applied to any wine or other liquor, other than wine the produce of Portugal and the island of Madeira respectively, shall be deemed to be a false trade description within the meaning of the Merchandise Marks Act, 1887 [50 & 51 Vict. c. 28], and that Act shall have effect accordingly:

Provided that it shall be a good defence to any proceedings under that Act in respect of such a description as aforesaid if it is proved—

- (a) that the wine or other liquor to which the description is applied is intended solely for exportation from the United Kingdom; or
- (b) in the case of any wine or other liquor sold or exposed for or kept in possession for sale within twelve months after the passing of this Act, that the description applied thereto was lawfully so applied before the passing of this Act.

2. *Short title.* This Act may be cited as the Anglo-Portuguese Commercial Treaty Act, 1914.

CHAPTER 2.

[CUSTOMS (EXPORTATION RESTRICTION) ACT, 1914.]

An Act to amend section one of the Exportation of Arms Act, 1900.

[27th November, 1914.]

[Printed, 59 SOLICITORS' JOURNAL, p. 164.]

CHAPTER 3.

[HOUSE OF COMMONS (COMMISSIONS IN HIS MAJESTY'S FORCES) ACT, 1914.]

An Act to prevent the Acceptance of a Commission in His Majesty's Forces vacating the seat of a Member of Parliament, or rendering a person holding such a Commission incapable of being elected to, or sitting, or voting in the Commons House of Parliament.

[27th November, 1914.]

[Printed, 59 SOLICITORS' JOURNAL, p. 164.]

CHAPTER 4.

[LAND DRAINAGE ACT, 1914.]

An Act to make better provision for the execution and maintenance of Land Drainage Works.

[27th November, 1914.]

Be it enacted, &c.:

1. *Power to constitute bodies for the construction of land drainage works.*—(1) If the Board of Agriculture and Fisheries (hereinafter referred to as "the Board") are of opinion that the execution of any work of drainage, embankment, or defence against water is desirable for the improvement or protection of any area, and that provision for the execution of the work should be made under the powers conferred by this Act, they may by Provisional Order constitute a body (corporate or unincorporate) for the purpose and authorise the execution of the work by the body so constituted, and make such provision for the execution and maintenance of the work as the Board may think proper.

(2) A Provisional Order under this section may, amongst other things—

- (a) define the area for the improvement or protection of which the work is executed;
- (b) define the powers and duties of the body constituted by the Order;
- (c) provide for the manner in which any expenses incurred by the body constituted by the Order are to be raised by conferring on that body such powers as to rating and borrowing as are exercisable by Commissions of Sewers, or by requiring contributions from other drainage authorities exercising jurisdiction within the area defined by the Order, and may for that purpose vary and extend any rating and borrowing powers of any drainage authority so required to contribute;
- (d) enable the body constituted by the Order to acquire land by agreement; or to acquire land compulsorily, if so authorised by an Order of the Development Commissioners made in accordance with the provisions of the Schedule to the Development and Road Improvement Funds Act, 1909 [9 Edw. 7, c. 47], and as if such provisions with the necessary adaptations were incorporated in this Act;

and the Provisional Order may contain any incidental, consequential, or supplemental provisions which may appear necessary or proper for the purposes of the Order.

(3) The provisions set out in the Schedule to this Act shall have effect with respect to Provisional Orders made under this Act.

2. *Expenses of the Board.* The expenses of the Board in relation to a Provisional Order shall, if and so far as the Order so directs, be paid to the Board by the body constituted by the Order, and be treated as part of the administrative expenses of that body, and subject as aforesaid shall be paid out of money provided by Parliament.

3. *Consent of Board of Trade in certain cases.* A Provisional Order made under this Act shall not authorise the construction, erection, or carrying out of any works on, under, or over any part of the foreshore or land contiguous thereto, or any dredging operations thereon, or the deposit of materials thereon, without the concurrence of the Board of Trade.

4. *Short title and duration.*—(1) This Act may be cited as the Land Drainage Act, 1914.

(2) The powers of making Provisional Orders under this Act shall not be exercised after the expiration of two years from the passing of this Act, except for the purpose of amending an existing Provisional Order made under this Act; but nothing in this subsection shall prejudice or affect

any powers or provisions contained in any Provisional Order made before the expiration of that period.

SCHEDULE.

[Section 1.]

PROVISIONS AS TO PROVISIONAL ORDERS.

(1) Before making a Provisional Order under this Act the Board shall cause notice of the intention to make the Order and of the place where copies of the draft Order may be inspected and obtained, and of the time within and manner in which objections to the draft Order may be made—

- (a) to be sent to the council of every county, and to every commission of sewers, drainage board, or other drainage or navigation authority exercising jurisdiction within the area comprised in the draft order;
- (b) to be advertised for two successive weeks in some newspaper in general circulation within that area.

(2) Before making a Provisional Order the Board shall consider any objections which may be duly made to the draft, and may in any case and shall if so required by any such council or authority as aforesaid cause a local public inquiry to be held with respect to any objections made to the draft Order.

(3) The Board may submit to Parliament for confirmation any Provisional Order made by them in pursuance of this Act, but any such Order shall be of no force whatever unless and until it is confirmed by Parliament.

(4) If, while the Bill confirming any such Order is pending in either House of Parliament, a petition is presented against any Order comprised therein, the Bill, so far as it relates to such Order, may be referred to a Select Committee, and the petitioner shall be allowed to appear and oppose as in the case of private Bills.

(5) The Board may revoke, either wholly or partially, any Provisional Order made by them before the Order is confirmed by Parliament, but such revocation shall not be made whilst the Bill confirming the Order is pending in either House of Parliament.

(6) The making of a Provisional Order shall be prima facie evidence that all the requirements of this Act in respect of proceedings required to be taken previously to the making of such Order have been complied with.

(7) Any Provisional Order made under this Act may be repealed, altered, or amended by any Provisional Order made by the Board in like manner as the original Order and confirmed by Parliament.

(8) The Board may make regulations in relation to the publication of notices and advertisements under this Schedule and to the holding of and procedure at public local inquiries under this Schedule and to any other matters of procedure respecting the making of Provisional Orders under this Act.

CHAPTER 5.

[SHERIFF COURTS (SCOTLAND) AMENDMENT ACT, 1914.]

An Act to amend Section Sixteen of the Sheriff Courts (Scotland) Act, 1907, relating to leave of absence to salaried Sheriffs-substitute.

[27th November, 1914.]

CHAPTER 6.

[CONSOLIDATED FUND (No. 1) ACT, 1914.
(SESSION 2).]

An Act to apply a sum out of the Consolidated Fund to the service of the year ending on the thirty-first day of March, one thousand nine hundred and fifteen.

[27th November, 1914.]

[Printed, 59 SOLICITORS' JOURNAL, p. 164.]

CHAPTER 7.

[FINANCE ACT, 1914 (SESSION 2).]

An Act to grant certain additional duties of Customs and Inland Revenue, including Excise, to alter other duties, and to amend the Law relating to Customs and Inland Revenue, including Excise, and the National Debt, and to make further provision in connection with Finance.

[27th November, 1914.]

[Printed, 59 SOLICITORS' JOURNAL, pp. 132, 148.]

CHAPTER 8.

[DEFENCE OF THE REALM CONSOLIDATION ACT, 1914.]

An Act to Consolidate and Amend the Defence of the Realm Acts.

[27th November, 1914.]

[Printed, 59 SOLICITORS' JOURNAL, p. 115.]

CHAPTER 9.

[CRIMINAL JUSTICE ADMINISTRATION (POSTPONEMENT) ACT, 1914.]

An Act to postpone the commencement of the Criminal Justice Administration Act, 1914.

[27th November, 1914.]

[Printed, 59 SOLICITORS' JOURNAL, p. 133.]

CHAPTER 10.

[LOCAL AUTHORITIES (DISQUALIFICATION RELIEF) ACT, 1914.]

An Act to extend, in respect of the present War, the relief from disqualification for office granted by the Members of Local Authorities Relief Act, 1900.

[27th November, 1914.]

[Printed, 59 SOLICITORS' JOURNAL, p. 164.]

CHAPTER 11.

[GOVERNMENT WAR OBLIGATIONS ACT, 1914.]

An Act to make provision with respect to obligations incurred by or on behalf of His Majesty's Government for the purposes of the present War, or in connection therewith, and for other purposes in relation thereto.

[27th November, 1914.]

[Printed, 59 SOLICITORS' JOURNAL, p. 165.]

CHAPTER 12.

[TRADING WITH THE ENEMY AMENDMENT ACT, 1914.]

An Act to amend the Trading with the Enemy

Act, 1914, and for purposes connected therewith.

[27th November, 1914.]

[Printed, 59 SOLICITORS' JOURNAL, p. 115.]

CHAPTER 13.

[EXECUTION OF TRUSTS (WAR FACILITIES) ACT, 1914.]

An Act to facilitate the Execution of Trusts during the present War.

[27th November, 1914.]

[Printed, 59 SOLICITORS' JOURNAL, p. 133.]

CHAPTER 14.

[POOR RELIEF (IRELAND) ACT, 1914.]

An Act to authorise the modification or repeal of Section nine of the Poor Relief (Ireland) Act, 1847, as respects certain Poor Law Unions in Ireland.

[27th November, 1914.]

CHAPTER 15.

[NATIONAL INSURANCE (NAVY AND ARMY) ACT, 1914 (SESSION 2).]

An Act to amend section forty-six of the National Health Insurance Act, 1911, as respects the present War.

[27th November, 1914.]

Be it enacted, &c.:

1. *Rule of conditions under 1 & 2 Geo. 5, c. 55, s. 46 (3) (h).* The requirements as to proof of state of health and to making application within the prescribed time imposed by paragraph (h) of subsection (3) of section forty-six of the National Insurance Act, 1911, as conditions on which a seaman, marine, or soldier, on his discharge from service, can become entitled to benefits payable out of the Navy and Army Insurance fund, shall not apply in the case of a seaman, marine, or soldier who, on his discharge from service during or within the prescribed period after the conclusion of the present war, is certified by the Admiralty or Army Council to be suffering from any disease, or disablement, or bodily or mental unfitness, but every such man shall become entitled to benefits payable out of that fund as from the date of his discharge in like manner as if he had satisfied such requirements as aforesaid:

Provided that if in any case the Insurance Commissioners are of opinion that the state of the man's health on discharge is not such as to disqualify him for admission to an approved society, the Commissioners may, by notice, fix a time (not being less than three months from the date of such notice and not being more than six months from the date of his discharge) at which he shall cease to be entitled to benefits out of the fund, unless he satisfies them that he has been unable by reason of the state of his health to obtain admission to an approved society.

2. *Extension of 1 & 2 Geo. 5, c. 55, s. 46.* Section forty-six of the National Insurance Act, 1911, shall apply, and shall be deemed always to have applied, to seamen and marines who have entered or enlisted for the purposes of the present war as it applies to men of the territorial force called out on embodiment.

3. *Short title.* This Act may be cited as the National Insurance (Navy and Army) Act, 1914 (Session 2).

CHAPTER 16.

[ROYAL MARINES ACT, 1914.]

An Act to extend the term of service of the Royal Marine Force during the present War.

[27th November, 1914.]

Be it enacted, &c.:

1. *Power to prolong service during the present war.* Section five of the Royal Marines Act, 1847 [10 & 11 Vict. c. 63], which enables the term of service for a marine to be prolonged if the term expires whilst he is serving on a foreign station, shall during the continuance of the present war apply, and shall be deemed always to have applied, wherever a marine may be or may have been serving at the expiration of his term of service, with the substitution of a reference to the Admiralty for the reference to the commanding officer on the foreign station.

2. *Short title.* This Act may be cited as the Royal Marines Act, 1914.

CHAPTER 17.

[NAVY AND MARINES (WILLS) ACT, 1914.]

An Act to enable the Admiralty to dispense with compliance with the requirements of the Navy and Marines (Wills) Acts, 1865 and 1897, in the case of Seamen and Marines dying during or in consequence of the present War.

[27th November, 1914.]

[Printed, 59 SOLICITORS' JOURNAL, p. 165.]

CHAPTER 18.

[INJURIES IN WAR COMPENSATION ACT, 1914 (SESSION 2).]

An Act to provide for the grant of Pensions and other Allowances to certain persons if disabled whilst employed abroad in connection with warlike operations, and to their dependants, and to amend the Injuries in War (Compensation) Act, 1914.

[27th November, 1914.]

[Printed, 59 SOLICITORS' JOURNAL, p. 165.]

CHAPTER 19.

[COURTS (EMERGENCY POWERS) (IRELAND) ACT, 1914.]

An Act to amend the Courts (Emergency Powers) Act, 1914, in its application to Ireland.

[27th November, 1914.]

CHAPTER 20.

[LAW AGENTS APPRENTICESHIP (WAR SERVICE) (SCOTLAND) ACT, 1914.]

An Act to enable apprentices to Law Agents in Scotland to reckon service in connection with the present war as service under an indenture of apprenticeship for the purposes of the Law Agents (Scotland) Act, 1873.

[27th November, 1914.]

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CHAPTER 21.

[BRITISH SHIPS (TRANSFER RESTRICTION) ACT, 1915.]

An Act to restrict the transfer of British Ships to Persons not qualified to own British Ships.

[16th March, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 384.]

CHAPTER 22.

[UNIVERSITIES AND COLLEGES (EMERGENCY POWERS) ACT, 1915.]

An Act to amend the Universities and College Estates Acts, and to extend the powers of the Universities of Oxford and Cambridge and the Colleges therein to make statutes, for purposes connected with the present War.

[16th March, 1915.]

CHAPTER 23.

[ARMY (SUSPENSION OF SENTENCES) ACT, 1915.]

An Act to authorise the suspension of sentences of penal servitude and imprisonment passed on soldiers engaged in active service beyond the seas during the present war.

[16th March, 1915.]

Be it enacted, &c.:

1. *Power to suspend sentences of penal servitude or imprisonment.* (1) Where a soldier employed on active service beyond the seas during the present war is sentenced to penal servitude or imprisonment, the confirming authority to whom the sentence is submitted for confirmation may, when confirming the sentence, direct that the soldier be not committed to prison until the orders of a superior military authority have been obtained.

(2) A superior military authority may in the case of any such soldier so sentenced—

(a) direct that a committal to prison shall not be issued until his orders have been obtained;

(b) suspend the sentence whether or not the soldier has already been committed to prison.

(3) Where a sentence of penal servitude or imprisonment is suspended under this section before the soldier has been committed to prison, the soldier if in custody shall be released, and, notwithstanding anything in the Army Act, the sentence shall not begin to run until the soldier is committed to prison under that sentence.

(4) Where a sentence of penal servitude or of imprisonment is suspended under this section after the soldier has been committed to prison he shall be discharged and the currency of the sentence shall be suspended until he is again committed to prison under the same sentence.

(5) Where a sentence has been suspended under this section the case may at any time, and shall at intervals of not less than three months, be reconsidered by a competent military authority, and if on any such reconsideration it appears to the competent military authority that the conduct of the soldier since his conviction has been such as to justify a remission of the sentence he shall remit it.

(6) A superior military authority may at any time whilst a sentence is suspended under this section order that the soldier be committed to

prison, and thereupon the sentence shall cease to be suspended.

(7) Where a soldier whilst a sentence on him is so suspended is sentenced to penal servitude or imprisonment for any other offence, then, if that sentence is also suspended under this section, the authority ordering the suspension may direct that the two sentences shall run either concurrently or consecutively, so, however, that the aggregate term of imprisonment served under two or more sentences of imprisonment shall not exceed two consecutive years; and where the sentence for such other offence is a sentence of penal servitude, then, whether or not that sentence is suspended, any previous sentence of imprisonment which has been suspended shall be avoided.

(8) The powers conferred by this section shall be in addition to and not in derogation of any powers as to the mitigation, remission, commutation, or suspension of sentences conferred by the Army Act, and a superior authority under this Act shall as respects soldiers so employed as aforesaid be an authority having power to mitigate, remit, or commute sentences of penal servitude or imprisonment under subsection (2) of section fifty-seven of the Army Act.

(9) In this Act—

The expression "superior military authority" means the officer commanding in chief of any force employed on active service beyond the seas, or any general officer commanding an army comprised in that force;

The expression "competent military authority" means a superior military authority, or any general or other officer not below the rank of field officer duly authorized by a superior military authority.

2. *Short title and construction.* This Act may be cited as the Army (Suspension of Sentences) Act, 1915, and shall be construed as one with the Army Act.

CHAPTER 24.

[INJURIES IN WAR (COMPENSATION) ACT, 1915.]

An Act to provide for the grant of pensions and other allowances to certain persons in respect of disablement due to causes arising out of the operations of the present War, whilst they are employed afloat in connexion with the telegraph and postal services, and to their dependants, and for purposes connected therewith.

[16th March, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 401.]

CHAPTER 25.

[ARMY (ANNUAL) ACT, 1915.]

An Act to provide, during Twelve Months, for the Discipline and Regulation of the Army.

[16th March, 1915.]

Whereas the raising or keeping of a standing army within the United Kingdom of Great Britain and Ireland in time of peace, unless it be with the consent of Parliament, is against law:

And whereas it is adjudged necessary by His Majesty and this present Parliament that a body of forces should be continued for the safety of the United Kingdom and the defence of the possessions of His Majesty's Crown, and that the whole number of such forces should consist of three million including those to be employed at the depôts in the United Kingdom of Great Britain and Ireland for the training of recruits

for service at home and abroad, but exclusive of the numbers actually serving within His Majesty's Indian possessions:

And whereas it is also judged necessary for the safety of the United Kingdom, and the defence of the possessions of this realm, that a body of Royal Marine forces should be employed in His Majesty's fleet and naval service, under the direction of the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral aforesaid:

And whereas the said marine forces may frequently be quartered or be on shore, or sent to do duty or be on board transport ships or vessels, merchant ships or vessels, or other ships or vessels, or they may be under other circumstances in which they will not be subject to the laws relating to the government of His Majesty's forces by sea;

And whereas no man can be forejudged of life or limb, or subjected in time of peace to any kind of punishment within this realm, by martial law, or in any other manner than by the judgment of his peers and according to the known and established laws of this realm; yet, nevertheless, it being requisite, for the retaining all the before-mentioned forces, and other persons subject to military law, in their duty, that an exact discipline be observed, and that persons belonging to the said forces who mutiny or stir up sedition, or desert His Majesty's service, or are guilty of crimes and offences to the prejudice of good order and military discipline, be brought to a more exemplary and speedy punishment than the usual forms of the law will allow:

And whereas the Army Act will expire in the year one thousand nine hundred and fifteen on the following days:—

(a) In the United Kingdom, the Channel Islands, and the Isle of Man, on the thirtieth day of April; and

(b) Elsewhere, whether within or without His Majesty's dominions, on the thirty-first day of July:

Be it therefore enacted, &c.:

1. *Short title.* This Act may be cited as the Army (Annual) Act, 1915.

2. *Army Act to be in force for specified times.*

(1) The Army Act shall be and remain in force during the periods hereinafter mentioned, and no longer, unless otherwise provided by Parliament (that is to say):—

(a) Within the United Kingdom, the Channel Islands, and the Isle of Man, from the thirtieth day of April, one thousand nine hundred and fifteen, to the thirtieth day of April, one thousand nine hundred and sixteen, both inclusive; and

(b) Elsewhere, whether within or without His Majesty's dominions, from the thirty-first day of July, one thousand nine hundred and fifteen, to the thirty-first day of July, one thousand nine hundred and sixteen, both inclusive.

(2) The Army Act, while in force, shall apply to persons subject to military law, whether within or without His Majesty's dominions.

(3) A person subject to military law shall not be exempted from the provisions of the Army Act by reason only that the number of the forces for the time being in the service of His Majesty, exclusive of the marine forces, is either greater or less than the number herein-before mentioned.

3. *Prices in respect of billeting.* There shall be paid to the keeper of a victualling house for the accommodation provided by him in pursuance of the Army Act the prices specified in the schedule to this Act.

SCHEDULE.

[Section 3.]

Accommodation to be provided.	Maximum price.
Lodging and attendance for soldier where meals furnished.	Sixpence per night.
Breakfast as specified in Part I. of the Second Schedule to the Army Act.	Fivepence each.
Dinner as so specified -	One shilling and one penny each.
Supper as so specified -	Threepence each.
Where no meals furnished, lodging and attendance, and candles, vinegar, salt, and the use of fire, and the necessary utensils for dressing and eating his meat.	Sixpence per day.
Stable room and ten pounds of oats, twelve pounds of hay, and eight pounds of straw per day for each horse.	Two shillings per day.
Stable room without forage.	Sixpence per day.
Lodging and attendance for officer.	Two shillings per night.

Notes.—An officer shall pay for his food.

CHAPTER 26.

[ARMY (AMENDMENT) ACT, 1915.]

An Act to amend the Army Act.

[16th March, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 385.]

CHAPTER 27.

[NATIONAL INSURANCE (PART II. AMENDMENT) ACT, 1915.]

An Act to enable contributions to be made for the purpose of Part II. of the National Insurance Act, 1911, by workmen employed abroad in insured trades on work connected with or arising out of the present War.

[16th March, 1915.]

Be it enacted, &c.:

1. *Contributions in respect of employment abroad in an insured trade.* Where a workman during the continuance of the present war and a period of one year thereafter is or has been employed outside the United Kingdom in an insured trade within the meaning of Part II. of the National Insurance Act, 1911 [1 & 2 Geo. 5, c. 55], on work connected with or arising out of the present war, and the contributions, which would be payable in respect of that workman if he were employed in the United Kingdom, are or have been by agreement between the workman and his employer paid in the manner prescribed by that Part of that Act, those contributions shall be deemed to have been properly paid for the purposes of that Part of that Act, and the workman shall accordingly for those purposes be deemed to be employed in an insured trade.

2. *Short title and construction.* (1) This Act may be cited as the National Insurance (Part II. Amendment) Act, 1915, and shall be construed as one with Part II. of the National Insurance Act, 1911.

(2) This Act may be cited with the National Insurance Acts, 1911 to 1914.

CHAPTER 28.

[NAVAL MEDICAL COMPASSIONATE FUND ACT, 1915.]

An Act to make further and better provision with regard to the Naval Medical Compassionate Fund.

[16th March, 1915.]

CHAPTER 29.

[NATIONAL INSURANCE (PART I. AMENDMENT) ACT, 1915.]

An Act to amend Part I. of the National Insurance Act, 1911.

[16th March, 1915.]

Be it enacted, &c.:

1. *Reduction of benefits in the case of persons entitled to pensions in respect of total disablement.* (1) When upon his discharge there has, whether before or after the passing of this Act, been granted to any person to whom section forty-six of the National Insurance Act, 1911 [1 & 2 Geo. 5, c. 55], applied at the time of his discharge, a pension in respect of total disablement suffered in consequence of the present war, the amount of any sickness or disablement benefit to which he may be entitled in respect of his insurance under the said Act shall as from such date as may be prescribed be reduced, so long as he continues in receipt of such pension, by five shillings a week, notwithstanding anything in the said Act to the contrary.

(2) The society, committee, or other body by which the sickness and disablement benefits of any such person are administered may, pending the settlement of his claim for pension, pay him benefit at the unreduced rate, and where benefit at the unreduced rate has been paid pending such settlement or has been paid between the prescribed date and the passing of this Act the amount of the difference between the benefit at the unreduced rate and at the reduced rate for such period shall be treated as an advance, and shall, without prejudice to any other method of recovery, be recoverable by deductions from or suspension of any benefits which may subsequently become payable to the person in question, or may, if the Admiralty or Army Council think fit, be repaid by them out of any arrears in their hands of the pension due to that person.

2. *Extension of s. 11 of principal Act to certain pensions, &c.* Where any pension, grant or allowance has been granted to any insured person in pursuance of the Injuries in War (Compensation) Act, 1914 [4 & 5 Geo. 5, c. 30], or the Injuries in War (Compensation) Act, 1914 (Session 2) [5 Geo. 5, c. 18], or the Injuries in War (Compensation) Act, 1915 [5 Geo. 5, c. 24], or any similar Act which may hereafter be passed and with respect to which regulations made by the Insurance Commissioners with the consent of the Treasury provide that this section shall apply, then as from the prescribed date such pension, grant or allowance shall, for the purposes of section eleven of the National Insurance Act, 1911, be treated as if it were compensation under the Workmen's Compensation Act, 1906 [6 Edw. 7, c. 58].

3. *Amendment of s. 46 of principal Act.* (1) In paragraph (b) of subsection (2) of section forty-six of the National Insurance Act, 1911, which relates to the insurance of persons in the naval and military service of the Crown, for the words "who within six months" there shall be substituted the words "who within the prescribed period, not being more than six months."

(2) For paragraph (iv.) of the same subsection the following paragraph shall be substituted:—

"(iv.) There shall be credited to the approved society of which he is a member a sum equal to fourpence for each weekly contribution paid, and an equal sum shall be treated as having been expended on benefits, and the proper proportion thereof shall accordingly be paid out of moneys provided by Parliament."

(3) For paragraph (b) of subsection (3) of the same section, the following paragraph shall be substituted:—

"(b) There shall be credited to the Navy and Army Insurance Fund a sum equal to fourpence for each weekly contribution paid in respect of every seaman, marine, or soldier who has not joined an approved society, and an equal sum shall be treated as having been expended on benefits, and the proper proportion thereof shall accordingly be paid out of moneys provided by Parliament."

(4) Subsections (2) and (3) of this section shall be deemed to have had effect as from the sixth day of July nineteen hundred and fourteen, and such financial adjustments as may consequently be necessary shall be made by the Insurance Commissioners.

4. *Short title and construction.* (1) This Act may be cited as the National Insurance (Part I. Amendment) Act, 1915; and the National Insurance Acts, 1911 to 1914, the National Insurance (Part II. Amendment) Act, 1915 [5 Geo. 5, c. 27], and this Act may be cited together as the National Insurance Acts, 1911 to 1915.

(2) This Act shall be construed as one with Part I. of the National Insurance Act, 1911.

CHAPTER 30.

[NAVAL DISCIPLINE ACT, 1915.]

An Act to amend the Naval Discipline Act.

[16th March, 1915.]

Be it enacted, &c.:

1. *Punishment for striking, &c., superior officer.* A sentence of death shall not be passed on a person subject to the Naval Discipline Act for striking, or with any weapon attempting to strike, or drawing or lifting up any weapon against, his superior officer, and accordingly for section sixteen of that Act the following section shall be substituted:—

"Every person subject to this Act who shall strike or attempt to strike, or draw or lift up any weapon against, or use or attempt to use any violence against, his superior officer, whether or not such superior officer is in the execution of his office, shall be punished with penal servitude or such other punishment as is hereinafter mentioned."

2. *Punishment for absence without leave in time of war.* The term of imprisonment or detention which may be imposed for absence without leave in time of war may exceed ten weeks, and accordingly in section twenty-three of the Naval Discipline Act, after the words "shall be liable" there shall be inserted the words "in time of war to imprisonment or such other punishment as is hereinafter mentioned, and at other times."

3. *Offences punishable under the Act.* In section forty-six of the Naval Discipline Act, which defines the cases in which offences are triable by court martial, after the words "in any arsenal, barrack or hospital belonging to Her Majesty" there shall be inserted the words "or in any other premises held by or on behalf of the Crown for naval or military purposes, or in any canteen or sailors' home or any place of recreation placed at the disposal of or used by officers or men of His Majesty's Navy which may be prescribed by the Admiralty."

4. *Provisions where offender has ceased to be subject to the Act.* After section forty-six of the Naval Discipline Act there shall be inserted the following section:—

"46A.—(1) Where an offence under this Act has been committed by any person while subject to this Act, such person may be taken into and kept in custody and tried and punished for such offence although he has ceased to be subject to this Act in like manner as he might have been taken into and kept in custody, tried, or punished if he had continued so subject: Provided that where a person has since the commission of an offence ceased to be subject to this Act, he shall not be tried for such offence, except in case of offences of mutiny or desertion, unless proceedings against him are instituted

within three months after he has ceased to be subject to this Act, but this section shall not affect the jurisdiction of a civil court in the case of any offence triable by such court as well as by court martial.

"(2) Where a person subject to this Act is sentenced under this Act to penal servitude, imprisonment, or detention, this Act shall apply to him during the term of his sentence, notwithstanding that he is discharged or dismissed from His Majesty's service, or has otherwise ceased to be subject to this Act, and he may be kept in custody, removed, imprisoned, made to undergo detention and punished accordingly, as if he had continued to be subject to this Act."

5. Power to arrest offenders.] In section fifty of the Naval Discipline Act, which relates to the arrest of offenders, after the words "or the senior officer present at a port," there shall be inserted the words "or an officer having by virtue of subsection (3) of section fifty-six of this Act power to try offences."

6. Power to inflict dismissal in addition to imprisonment.] A sentence of imprisonment may be accompanied by a sentence that the prisoner be dismissed from His Majesty's service, and accordingly at the end of paragraph (7) of section fifty-three of the Naval Discipline Act there shall be inserted the words "and may be accompanied with a sentence of dismissal from His Majesty's service."

7. Officers having power to try offences.] (1) In paragraph (c) of subsection (3) of section fifty-six of the Naval Discipline Act, which as respects certain persons confers on certain officers the powers of an officer commanding a ship with respect to the trial of offences, for the words "on shore on detached service" there shall be substituted the words "on detached service either on shore or otherwise," and in the same paragraph the words "on shore" where they last occur shall be repealed.

(2) At the end of the same subsection the following paragraph shall be inserted:—

"(d) as respects persons subject to this Act quartered in naval barracks, the officer in command of those barracks."

8. Place for holding courts martial.] At the end of section fifty-nine of the Naval Discipline Act, which requires courts martial to be held on board ship, the following words shall be added, "unless the Admiralty or the officer who ordered the court martial in any particular case for reasons to be recorded on the proceedings otherwise direct, in which case the court martial shall be held at a port at such convenient place on shore as the Admiralty or the officer who ordered the court martial may direct."

9. Evidence of rank, &c., of officers.] The following section shall be inserted after section sixty-nine of the Naval Discipline Act:—

"69A. A Navy List or Gazette purporting to be published by authority and either to be printed by a Government printer or to be issued by His Majesty's Stationery Office, shall be evidence of the status and rank of the officers therein mentioned and of any appointment held by such officers until the contrary is proved."

10. Consecutive sentences of imprisonment.] In section seventy-three of the Naval Discipline Act, which relates to the power to impose consecutive sentences of imprisonment, for the words "passed upon him by a court martial for a former offence" there shall be substituted the words "passed upon him under this Act for a former offence."

11. Power to suspend sentences.] After section seventy-four of the Naval Discipline Act the following section shall be inserted:—

"74A. Where a person has been sentenced to penal servitude or imprisonment or detention the Admiralty or officer who by virtue of subsection (3) of section seventy-four of this Act has power to

issue an order of committal (hereinafter in this section referred to as 'the committing authority') may, in lieu of issuing such an order, order that the sentence be suspended until an order of committal be issued, and in such case—

"(a) Notwithstanding anything in this Act, the term of the sentence shall not be reckoned as commencing until an order of committal is issued;

"(b) The case may at any time, and shall at intervals of not less than three months, be reconsidered by the Admiralty or committing authority, and if on any such reconsideration it appears to the Admiralty or committing authority that the conduct of the offender since his conviction has been such as to justify a remission of the sentence the Admiralty or committing authority shall remit the whole or any part of it;

"(c) The Admiralty or committing authority may at any time whilst the sentence is suspended issue an order of committal and thereupon the sentence shall cease to be suspended;

"(d) Where a person subject to this Act, whilst a sentence on him is so suspended, is sentenced to penal servitude or imprisonment or detention for any other offence then, if he is at any time committed either under the suspended sentence or under any such subsequent sentence, and whether or not any such subsequent sentence has also been suspended, the committing authority may direct that the two sentences shall run either concurrently or consecutively, so, however, as not to cause a person to undergo imprisonment or detention for a period exceeding the aggregate of two consecutive years, and where the sentence for such other offence is a sentence of penal servitude, then, whether or not that sentence is suspended, any previous sentence of imprisonment or detention which has been suspended shall be avoided."

12. Change of place of confinement.] In section seventy-five of the Naval Discipline Act which relates to the change of the place of confinement, for the words "any such commander in chief," there shall be substituted "the commander in chief or senior naval officer present."

13. Relations between military and naval forces acting together.] The following section shall be inserted in the Naval Discipline Act after section ninety:—

"90A.—(1) Where an officer or non-commissioned officer, not below the rank of sergeant, is a member of a body of His Majesty's military forces acting with, or is attached to, any body of His Majesty's naval forces under such conditions as may be prescribed by regulations made by the Admiralty and Army Council, then for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, he shall, in relation to such body of His Majesty's naval forces as aforesaid, be treated, and may exercise all such powers (other than powers of punishment), as if he were a naval officer or petty officer, as the case may be.

"(2) Where any naval officer or seaman is a member of a body of His Majesty's naval forces acting with, or is attached to, any body of His Majesty's military forces under such conditions as may be so prescribed as aforesaid, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, the officers and non-commissioned officers, not below the rank of sergeant, of such military body shall, in relation to him, be treated, and may exercise all such

powers (other than powers of punishment), as if they were naval officers and petty officers.

"(3) The relative rank of naval and military officers, petty officers, and non-commissioned officers shall, for the purposes of this section, be such as is provided by the King's Regulations and Admiralty Instructions for the time being in force."

14. Discipline on hired ships in time of war.] At the end of paragraph (5) of section ninety of the Naval Discipline Act, which relates to discipline upon hired ships in His Majesty's service in time of war, there shall be inserted the words "Provided that in the absence of the officer commanding such hired vessel, the officer commanding the ship or vessel or station in which such person may for the time being be held in custody shall have such power as aforesaid."

15. Revival of parts of Naval Discipline Act.] So much of the schedule to the Statute Law Revision Act, 1893 as relates to the preamble to, and part of section eighty-six of, the Naval Discipline Act shall cease to have and shall be deemed never to have had effect.

16. Printing and construction of Naval Discipline Act.] (1) Every enactment and word which is directed by this Act to be substituted for or added to any portion of the Naval Discipline Act shall form part of that Act in the place assigned to it by this Act, and the Naval Discipline Act, and all Acts which refer thereto, shall after the commencement of this Act be construed as if that enactment or word had been originally enacted in the Naval Discipline Act in the place so assigned, and, where it is substituted for another enactment or word, had been so enacted in lieu of that enactment or word, and as if the Naval Discipline Act had been enacted with the omission of any enactment or word which is directed by this Act to be omitted from that Act, and the expression "this Act" in the Naval Discipline Act shall be construed accordingly.

(2) A copy of the Naval Discipline Act with every such enactment and word inserted in the place so assigned, and with the omission of any portion of that Act directed by this Act to be omitted from that Act, and with the substitution of references to His Majesty for references to Her Majesty shall be prepared and certified by the Clerk of the Parliaments and deposited with the rolls of Parliament, and His Majesty's printers shall print in accordance with the copy so certified all copies of the Naval Discipline Act which are printed after the commencement of this Act.

17. Short title.] This Act may be cited as the Naval Discipline Act, 1915.

CHAPTER 31.

[CUSTOMS (WAR POWERS) ACT, 1915.]

An Act to amend the enactments relating to Customs during the present War.

[16th March, 1915.]

Be it enacted, &c.:

1. Provision with respect to shipment as stores of prohibited or restricted goods.] (1) Where any goods are prohibited either to be exported or carried coastwise, or any goods are prohibited to be exported to any named country or place, it shall not be lawful for any person to ship as stores on any vessel any of the goods to which the prohibition extends, except such quantity of any of those goods as may be allowed to be so shipped by the proper officer of Customs and Excise as being reasonably required to be shipped at the port of departure for use on board the vessel during the voyage on which it is about to depart.

(2) If any person ships as stores any goods, or brings any goods to any quay or other place with intent to ship the same as stores, in contravention of this section, the goods shall be forfeited and he shall for each offence be liable to a penalty of one hundred pounds.

2. Pre-entry of ship's stores.] The power of the Commissioners of Customs and Excise under section one hundred and thirty-nine of the Customs Consolidation Act, 1876 [39 & 40 Vict. c. 36.], by

order to require due entry and clearance before shipment shall apply to goods intended for shipment as stores on any ship being goods subject to any prohibition or restriction outwards, as it applies to goods intended for exportation or carriage coastwise.

3. *Provision as to coasting ships departing without clearance.*] Where the master of any coasting ship has rendered himself liable to a penalty under section six of the Customs and Inland Revenue Act, 1878 [41 & 42 Vict. c. 42], by departing without due clearance of his ship, the Commissioners of Customs and Excise may, for the purpose of enforcing the said penalty, require the deposit in the hands of the collector of Customs and Excise at any port where the ship is found of such sum not exceeding one hundred pounds as they think fit and in default of payment of the sum so required to be deposited the ship may be detained.

4. *Provision as to exportation of goods under licence.*] Where a licence to export any goods, being goods subject to any prohibition or restriction outwards, authorises the exportation thereof to a particular person or place or to a particular person at a particular place named in the licence, the name of the person or place, or both, as the case may be, shall be inserted in all invoices, bills of lading, manifests and other documents relating to the goods, and if this requirement is not complied with as respects any document the person by whom or on whose behalf the document is made out shall, if he is the exporter of the goods, be deemed to have exported the goods without a licence, and, if any other person, be liable to a penalty of one hundred pounds.

5. *Provisions as to declarations as to ultimate destination of exported goods.*] (1) Where in pursuance of any order made by the Commissioners of Customs and Excise under section one hundred and thirty-nine of the Customs Consolidation Act, 1876, a person in the course of making entry before shipment makes a declaration as to the ultimate destination of any goods then, unless security has been given by bond, the exporter shall, if so required by the Commissioners of Customs and Excise, produce evidence to their satisfaction that those goods have not reached a destination in any territory which, under any Proclamation issued by His Majesty dealing with trading with the enemy for the time being in force, is or is treated as enemy country, and if he fails to do so he shall be liable to a penalty of treble the value of the goods or one hundred pounds at the election of the Commissioners, unless he proves that they reached such destination without his consent or connivance, and that he took all reasonable steps to secure that the ultimate destination of the goods should be the destination mentioned in the declaration.

(2) If the Commissioners of Customs and Excise have reason to suspect that any such declaration as aforesaid is false in any material particular, the goods may be detained until the Commissioners are satisfied as to the truth of the declaration, and, failing such satisfaction, may be treated as if they were goods subject to a prohibition or restriction outwards.

6. *Power to seize imported goods of enemy origin.*] Where the Commissioners of Customs and Excise have reason to suspect that the country of origin of any goods imported into the United Kingdom is an enemy country within the meaning of the last preceding section, the goods may be seized as though they were goods enumerated and described in the table of prohibitions and restrictions inwards contained in section forty-two of the Customs Consolidation Act, 1876, and in any proceedings for the forfeiture and condemnation thereof the country of origin of such goods shall be deemed to be such an enemy country unless the contrary is proved.

7. *Short title, construction, and duration.*] (1) This Act may be cited as the Customs (War Powers) Act, 1915, and shall be construed together with the Customs Consolidation Act, 1876, and any enactments amending that Act.

(2) This Act shall continue in force only during the continuance of the present war.

CHAPTER 32.

[IRISH POLICE (NAVAL AND MILITARY SERVICE) ACT, 1915.]

An Act to authorise the grant of certain pensions and other allowances in respect of Members of the Royal Irish Constabulary and Dublin Metropolitan Police who are Reservists or join the Naval or Military Forces and for other purposes incidental thereto.

[16th March, 1915.]

CHAPTER 33.

[CONSOLIDATED FUND (No. 2) ACT, 1915.]

An Act to apply certain sums out of the Consolidated Fund to the service of the years ending on the thirty-first day of March, one thousand nine hundred and fourteen, one thousand nine hundred and fifteen, and one thousand nine hundred and sixteen.

[16th March, 1915.]

CHAPTER 34.

[DEFENCE OF THE REALM (AMENDMENT) ACT, 1915.]

An Act to amend the Defence of the Realm Consolidation Act, 1914.

[16th March, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 385.]

CHAPTER 35.

[NAVAL MARRIAGES ACT, 1915.]

An Act to provide further facilities for the marriage of officers, seamen and marines borne on the books of any of His Majesty's ships during the continuance of the present war.

[16th March, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 401.]

CHAPTER 36.

[LEGAL PROCEEDINGS AGAINST ENEMIES ACT, 1915.]

An Act to facilitate Legal Proceedings against Enemies in certain cases.

[16th March, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 386.]

CHAPTER 37.

[DEFENCE OF THE REALM (AMENDMENT) (No. 2) ACT, 1915.]

An Act to amend the Defence of the Realm Consolidation Act, 1914.

[16th March, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 386.]

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CHAPTER 38.

[COPYRIGHT (BRITISH MUSEUM) ACT, 1915.]

An Act to amend the Copyright Act, 1911, with respect to the delivery of books to the British Museum.

[19th May, 1915.]

1. *Amendment of 1 & 2 Geo. 5. c. 46. s. 15 (1).*] At the end of subsection (1) of section fifteen of the Copyright Act, 1911, which relates to the delivery of books to the British Museum, the following proviso shall be added:—

"Provided that the Board of Trade may, on the application of the Trustees of the British Museum, make regulations, excepting from the provisions of this subsection publications wholly or mainly in the nature of trade advertisements, or such classes of such publications as may be specified in the regulations, and thereupon it shall not be necessary for the publisher of any publication so excepted so to deliver the publication or

for the trustees to give a receipt therefor, unless, as respects any particular publication, a written demand for the delivery thereof is made by the trustees. Every regulation under this proviso shall be laid before each House of Parliament as soon as may be after it is made, and if an address is presented to His Majesty by either House of Parliament within the next subsequent twenty-one days on which the House has sat, praying that any such regulation may be annulled, His Majesty in Council may annul the regulation and it shall be thenceforth void, but without prejudice to the validity of anything previously done thereunder before the expiration of such period."

2. *Short title.*] This Act may be cited as the Copyright (British Museum) Act, 1915, and the Copyright Act, 1911, and this Act may be cited together as the Copyright Acts, 1911 and 1915.

CHAPTER 39.

[FUGITIVE OFFENDERS (PROTECTED STATES) ACT, 1915.]

An Act to enable the Fugitive Offenders Act, 1881, to be extended to Protected States.

[19th May, 1915.]

Be it enacted, &c.:

1. *Application of 44 & 45 Vict. c. 69 to protected States.*] It shall be lawful for His Majesty by Order in Council to direct that the Fugitive Offenders Act, 1881, shall apply as if, subject to the conditions, exceptions and qualifications (if any) contained in the Order, any place or group of places over which His Majesty extends his protection, and which is named in the Order, were a British possession, and to provide for the carrying into effect of such application.

2. *Short title and construction.*] This Act may be cited as the Fugitive Offenders (Protected States) Act, 1915, and shall be construed as one with the Fugitive Offenders Act, 1881, and that Act and this Act shall be cited together as the Fugitive Offenders Acts, 1881 and 1915.

CHAPTER 40.

[MARRIAGE OF BRITISH SUBJECTS (FACILITIES) ACT, 1915.]

An Act to facilitate Marriages between British Subjects resident in the United Kingdom and British Subjects resident in other parts of His Majesty's Dominions or in British Protectorates.

[19th May, 1915.]

Be it enacted, &c.:

1. *Facilities for marriages between British subjects resident in the United Kingdom and British subjects resident elsewhere.*] (1) Where His Majesty is satisfied that the law in force in any part of His Majesty's dominions outside the United Kingdom makes due provision for the publication of banns or for the giving of notice in respect of marriages between British subjects intended to be solemnised or contracted in the United Kingdom, and for the recognition of certificates for marriage issued by superintendent registrars in England and of certificates for marriage issued by registrars, and certificates of proclamation of banns, in Scotland, and of certificates for marriage issued by registrars in Ireland as sufficient notice in respect of marriages between British subjects intended to be solemnised or contracted in that part of His Majesty's dominions, His Majesty may by Order in Council declare that this section shall apply to that part of His dominions, and in such case—

(a) Where a marriage is intended to be solemnised or contracted in the United Kingdom between a British subject resident in England, Scotland or Ireland and a British subject resident in that part of His Majesty's dominions, a certificate of the publication of banns or a certificate of notice of marriage issued in accord-

ance with such law shall in England have the same effect as a certificate for marriage issued by a superintendent registrar, and in Scotland and Ireland have the same effect as a certificate for marriage issued by a registrar in Scotland and Ireland respectively; and

- (b) Where a marriage is intended to be solemnized or contracted in that part of His Majesty's dominions between a British subject resident in that part and a British subject resident in England, Scotland or Ireland, a certificate for marriage may be issued in England by a superintendent registrar, or in Scotland or Ireland by a registrar, in the like manner as if the marriage was to be solemnized or contracted under circumstances requiring the issue of such a certificate, and as if both British subjects were resident in England, Scotland or Ireland, as the case may be.

(2) For the purposes of this section the expression "certificate for marriage" in reference to certificates issued in Scotland shall mean a certificate of due publication of notice of intention to marry.

(3) Nothing in this Act shall affect the existing law or practice relating to the proclamation of banns in Scotland or the issue of certificates of such proclamation.

2. Extension to protectorates.] His Majesty may by Order in Council extend this Act to any British protectorate, and on the making of any such Order this Act shall, subject to the provisions of the Order, have effect as if the protectorate were part of His Majesty's dominions.

3. Short title.] This Act may be cited as the Marriage of British Subjects (Facilities) Act, 1915.

CHAPTER 41.

[POLICE (EMERGENCY PROVISIONS) ACT, 1915.]

An Act to amend the enactments relating to the Police during the present War.

[19th May, 1915.]

Be it enacted, &c.:

1. Extension of 4 & 5 Geo. 5, cc. 34 & 80, and 5 Geo. 5, c. 32.] (1) Subsection (2) of section two of the Police Constables (Naval and Military Service) Act, 1914, shall have effect and shall be deemed always to have had effect as if the words "if the police authority are satisfied, after consultation with the Admiralty or Army Council, that the constable possesses qualifications not possessed by ordinary recruits for rendering special service in the navy or army" were omitted therefrom, and the words "with the consent of the Chief Officer of Police of the force to which he belongs" were inserted in their place.

(2) The subsection which by section one of the Police Constables (Naval and Military Service) Act, 1914, is substituted for subsection (2) of section one of the Police Reservists (Allowances) Act, 1914, and subsection (2) of section one of the Irish Police (Naval and Military Service) Act, 1915, shall respectively have effect and shall be deemed always to have had effect as if the following provision were added thereto:—

"If the man dies or is disabled whilst in naval or military service under circumstances which do not entitle his widow or children or him to any pension or allowances payable out of naval or military funds, the police authority shall have power to grant to his widow and children or to him such gratuities or pension as could have been awarded under the enactments relating to the police, had the man been a member of the police force at the time of his death or disablement."

(3) For removing doubts it is hereby declared that the privileges to which a man may be entitled under the Police Reservists (Allowances)

Act, 1914, or the Police Constables (Naval and Military Service) Act, 1914, or the Irish Police (Naval and Military Service) Act, 1915, shall continue, and may be renewed, notwithstanding that the man is granted a temporary commission for the purposes of the present war in any of His Majesty's naval or military forces.

(4) This section shall as respects England and Scotland be construed as one with the Police Reservists (Allowances) Act, 1914, and the Police Constables (Naval and Military Service) Act, 1914, and as respects Ireland with the Irish Police (Naval and Military Service) Act, 1915.

(5) This section shall continue in operation only during the continuance of the present war.

2. Suspension of right to retire on a pension.] Notwithstanding any enactment to the contrary, no constable shall, during the continuance of the present war, be entitled without a medical certificate to retire and receive a pension for life except with the consent of the chief officer of the police force to which he belongs:

Provided that where a constable has given before the commencement of this Act, or hereafter gives during the continuance of the present war, written notice of his desire to retire in circumstances which, but for this section, would entitle him to retire without a medical certificate and to receive a pension for life, his right to retire at the termination of the present war with a pension not less in amount than that to which he would have been entitled had he retired at the date when such notice was given shall not be liable to forfeiture except for such misconduct as would, had he been in receipt of a pension, have rendered the pension liable to forfeiture.

3. Prohibition of the establishment of new police forces and amalgamation of existing forces.] (1) During the continuance of the present war no new separate police force shall be established, and the operation of any enactment providing for the establishment of such a force shall be and shall be deemed as from the fourth day of August nineteen hundred and fourteen to have been suspended.

(2) Where the Secretary of State considers it necessary for the purpose of efficient administration, he may order that the police force established in any borough (not being a county borough) under the Municipal Corporations Act, 1882 [45 & 46 Vict., c. 50], or any Act repealed by that Act, may, for the purposes of control and discipline, be treated during the continuance of the present war as part of the police force of the county in which the borough is situate, and may for that purpose give directions as to the manner in which the amalgamation of the forces is to be effected, and what the arrangements for the control and discipline are to be.

(3) This section shall not apply to Ireland.

4. Short title.] This Act may be cited as the Police (Emergency Provisions) Act, 1915, and the Police Reservists (Allowances) Act, 1914, and so much of this Act as amends those Acts, may be cited together as the Police Constables (Naval and Military Service) Acts, 1914 and 1915.

CHAPTER 42.

[DEFENCE OF THE REALM (AMENDMENT) (No. 3) ACT, 1915.]

An Act to extend the Defence of the Realm Consolidation Act, 1914.

[19th May, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 548.]

CHAPTER 43.

[ARMY (TRANSFERS) ACT, 1915.]

An Act to amend section eighty-three of the Army Act with respect to transfers during the present War.

[19th May, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, 549.]

CHAPTER 44.

[STATUTORY COMPANIES (REDEEMABLE STOCK) ACT, 1915.]

An Act to enable certain Statutory Companies to create and issue Preference Shares or Stock, and Debentures or Debenture Stock, so as in each case to be redeemable.

[19th May, 1915.]

Be it enacted, &c.:

1. Issue of redeemable preference or debenture stock.] (1) Where a statutory company as defined by the Act are authorised to raise any preference or debenture stock they may create and issue that stock so as to be redeemable on such terms and conditions as may be specified in a resolution of the company passed at a special meeting convened for the purpose.

(2) If it is so provided in the resolution the statutory company may—

(a) call in and pay off the stock or any part thereof at any time before the fixed date of redemption; and

(b) redeem the stock or any part thereof, either by paying off the stock or by issuing to any stockholder, subject to his consent, other stock in substitution therefor; and may, for the purpose of providing money for paying off the stock or of providing substituted stock, create and issue new stock (either redeemable or irredeemable) or reissue stock originally created and issued under this section, provided that the creation and issue for the purpose of any particular class of stock does not make the total nominal amount of that stock issued exceed the amount of that class of stock which the company are for the time being authorised to create.

(3) The company may set aside out of revenue, after providing for the payment of interest on any loan, or on any guaranteed, preference or debenture stock of the company, and for other fixed charges and obligations, such sums as they may consider proper for the purpose of forming a fund for the redemption at maturity of any redeemable preference or debenture stock which, under the conditions of the creation and issue of that stock, is to be redeemed wholly or partly in cash; and the company may invest any sums so set apart, and the income therefrom, in any securities in which trustees are for the time being by law authorised to invest trust funds, or in any other securities (not being securities of the company except as hereinafter provided) in which they may be authorised to invest those sums by a resolution passed at a general meeting of the company.

Any sums so set apart shall be applied for the redemption at maturity of any redeemable preference or debenture stock for the redemption of which they have been set apart, but may, if the directors of the company think fit, be also at any time applied in the purchase of any such stock at a price not exceeding the redemption price, and any stock so purchased shall be cancelled.

(4) A resolution of a statutory company, passed before the commencement of this Act and after the outbreak of the war, for the creation or issue of redeemable stock shall, for the purposes of this Act, have the same effect as if this Act had been in operation at the time when the resolution was passed.

(5) This Act shall apply only to stock authorised to be created or to be issued before the outbreak of the present war, and before the commencement of this Act; and redeemable stock shall not be created or issued, in pursuance of the powers given by this Act, during the continuance of the present war and a period of twelve months thereafter except with the consent of the Treasury.

2. Interpretation and construction.] (1) In this Act, unless the context otherwise requires,—

The expression "statutory company" means any railway company, canal company, dock company, water company, or other company incorporated by special Act,

who are for the time being authorised under such an Act to construct, work, own, or carry on any railway, canal, dock, water, or other public undertaking, and includes any person or body of persons so authorised.

The expression "special Act" includes any certificate or order having the force of an Act.

(2) The provisions of this Act shall apply to preference shares in the same manner as they apply to preference stock, and to debentures in the same manner as they apply to debenture stock.

(3) The powers given by this Act shall be deemed to be in addition to, and not in derogation of, any other powers under any other Act; and those powers may be exercised in the same manner as if this Act had not passed.

3. *Short title.*] This Act may be cited as the Statutory Companies (Redeemable Stock) Act, 1915.

CHAPTER 45.

[BRITISH NORTH AMERICA ACT, 1915.]

An Act to amend the British North America Act, 1867.

[19th May, 1915.]

Be it enacted, &c.:

1. *Alteration of constitution of Senate.*] (1) Notwithstanding anything in the British North America Act, 1867 [30 & 31 Vict. c. 3], or in any Act amending the same, or in any Order in Council or terms or conditions of union made or approved under the said Acts or in any Act of the Canadian Parliament—

(i) The number of senators provided for under section twenty-one of the British North America Act, 1867, is increased from seventy-two to ninety-six:

(ii) The Divisions of Canada in relation to the constitution of the Senate provided for by section twenty-two of the said Act are increased from three to four, the fourth division to comprise the Western Provinces of Manitoba, British Columbia, Saskatchewan, and Alberta, which four Divisions shall (subject to the provisions of the said Act and of this Act) be equally represented in the Senate, as follows:—Ontario by twenty-four senators; Quebec by twenty-four senators; the Maritime Provinces and Prince Edward Island by twenty-four senators, ten thereof representing Nova Scotia, ten thereof representing New Brunswick, and four thereof representing Prince Edward Island; the Western Provinces by twenty-four senators, six thereof representing Manitoba, six thereof representing British Columbia, six thereof representing Saskatchewan, and six thereof representing Alberta:

(iii) The number of persons whom by section twenty-six of the said Act the Governor-General of Canada may, upon the direction of His Majesty the King, add to the Senate is increased from three or six to four or eight, representing equally the four divisions of Canada:

(iv) In case of such addition being at any time made the Governor-General of Canada shall not summon any person to the Senate except upon a further like direction by His Majesty the King on the like recommendation to represent one of the four Divisions until such Division is represented by twenty-four senators and no more:

(v) The number of senators shall not at any time exceed one hundred and four:

(vi) The representation in the Senate to which by section one hundred and forty-seven of the British North America Act, 1867, Newfoundland would be entitled, in case of its admission to the Union is increased from four to six members, and in case of the admission of Newfound-

land into the Union, notwithstanding anything in the said Act or in this Act, the normal number of senators shall be one hundred and two, and their maximum number one hundred and ten:

(vii) Nothing here contained shall affect the powers of the Canadian Parliament under the British North America Act, 1866 [49 & 50 Vict. c. 35.]

(2) Paragraphs (i) to (vi) inclusive of subsection (1) of this section shall not take effect before the termination of the now existing Canadian Parliament.

2. *Constitution of House of Commons.*] The British North America Act, 1867, is amended by adding thereto the following section immediately after section fifty-one of the said Act:—

51A. Notwithstanding anything in this Act, a province shall always be entitled to a number of members in the House of Commons not less than the number of senators representing such province.

3. *Short title.*] This Act may be cited as the British North America Act, 1915, and the British North America Acts, 1867 to 1886, and this Act may be cited together as the British North America Acts, 1867 to 1915.

CHAPTER 46.

[IMMATURE SPIRITS (RESTRICTION) ACT, 1915.]

An Act to restrict the Supply and Sale of Immature Spirits.

[19th May, 1915.]

Be it enacted, &c.:

1. *Restriction on delivery for the purposes of home consumption of immature spirits.*] (1) No British or foreign spirits shall be delivered for home consumption unless they have been warehoused for a period of at least three years:

Provided that—

(a) this restriction shall not apply to spirits delivered for purposes for which they may for the time being be delivered free of duty or to mixtures, compounds or preparations which have been charged to duty in respect of the spirit contained in them or used in their preparation or manufacture; and

(b) subject to the payment of such duties (if any) as Parliament may determine, and to compliance with such conditions as the Commissioners of Customs and Excise may impose, this restriction shall not apply—

(i) to spirits delivered to a licensed rectifier, to a manufacturing chemist, or to a manufacturer of perfumes, for use in their manufactures, or to other persons licensed by the Commissioners of Customs and Excise; or

(ii) to spirits delivered for scientific purposes; or

(iii) to imported Geneva and perfumed spirits and foreign liqueurs; and

(c) subject to the payment of such duties (if any) as Parliament may determine and to compliance with such conditions as the Commissioners of Customs and Excise may impose, this restriction shall not apply for a period of one year after the commencement of this Act—

(i) to spirits of any sort delivered for home consumption; if they have been warehoused for a period of at least two years; or

(ii) to imported rum delivered for home consumption, if it has been warehoused for a period of at least nine months; and

(d) any period which, in the case of imported spirits is shown to the satisfaction of the Commissioners of Customs and Excise to have elapsed between the dates of distillation and importation shall be treated, for the purposes of this Act, as a period

during which the spirits have been warehoused.

(2) Nothing contained in this section shall interfere with the supply of rectified spirits of wine for the purpose of making medicines to registered medical practitioners, to hospitals, and to persons, firms, and bodies corporate entitled to carry on the business of a chemist and druggist.

(3) If any person procures, or attempts to procure, the delivery of spirits in contravention of this Act, or acts in contravention of or fails to comply with any conditions imposed by the Commissioners of Customs and Excise in pursuance of this Act, he shall be liable to a customs or excise penalty, as the case may be, of one hundred pounds; and any spirits in respect of which the offence has been committed shall be forfeited.

2. *Existing contracts.*] Where any existing contracts are interfered with by this Act the contractors shall to the extent of such interference be relieved therefrom.

3. *Short title.*] This Act may be cited as the Immature Spirits (Restriction) Act, 1915.

CHAPTER 47.

[SPECIAL CONSTABLES (SCOTLAND) ACT, 1915.]

An Act to amend the Law relating to the appointment of Special Constables in Scotland.

[19th May, 1915.]

CHAPTER 48.

[FISHERY HARBOURS ACT, 1915.]

An Act to make provision for facilitating the improvement, management, and maintenance of small harbours principally used by the fishing industry.

[19th May, 1915.]

Be it enacted, &c.:

1. *Application of Act.*] This Act shall apply only to small harbours which in the opinion of the Board of Trade and the Board of Agriculture and Fisheries are principally used by the fishing industry.

2. *Power of Board of Agriculture and Fisheries to make orders.*] In relation to any harbour to which this Act applies the powers of the Board of Trade under the General Pier and Harbour Act, 1861 [24 & 25 Vict. c. 45], and the Acts amending that Act (except as hereinafter mentioned), shall as respects that harbour be exercisable by the Board of Agriculture and Fisheries, and in such case the said Acts shall apply accordingly, subject to the following modifications:—

(1) For references to the Board of Trade there shall be substituted references to the Board of Agriculture and Fisheries, except in sections seven to sixteen of the General Pier and Harbour Act, 1861, Amendment Act [25 & 26 Vict. c. 19], which shall apply without such substitution to an Order under this Act;

(2) Sections three to five of the General Pier and Harbour Act, 1861, Amendment Act, and the schedule therein referred to shall not apply, but the applicants for an Order shall publish notice of the application and of any proposed works in such manner as the Board of Agriculture and Fisheries may prescribe, and shall also send notice in writing thereof to the Board of Trade;

(3) Section sixteen of the General Pier and Harbour Act, 1861, shall not apply, but in lieu thereof the following provisions shall have effect:—

(1) After a Provisional Order has been settled and made by the Board of Agriculture and Fisheries, the Board shall publish in such manner as they think best adapted for informing persons affected notice that they have settled the Order and of the place where copies of the Order as settled may be obtained, together with a statement that the Order will become final

and have effect as an Act of Parliament, unless within such period, not being less than thirty days, as may be stated in the notice, a memorial by—

(a) any committee constituted under the Sea Fisheries Regulation Act, 1888 [51 & 52 Vict., c. 54], or board of conservators constituted under the Salmon and Freshwater Fisheries Acts, 1861 and 1907, having jurisdiction over the harbour or any part thereof;

(b) the council of any borough, district or parish in which the harbour or any part thereof is situate; or

(c) any twenty or more inhabitant householders of any such borough, district or parish, is presented to the Board praying that the Order shall not become law without confirmation by Parliament;

(2) If no memorial has been presented by any such body or persons within such period as aforesaid, or if every such memorial has been withdrawn, the Board shall confirm the Order, and the Order shall thereupon have effect as if enacted in this Act, but if any such memorial has been presented and has not been withdrawn, the Order shall have no effect, unless and until confirmed by Parliament, and in such case the Board may bring in a Bill to confirm the Order;

(4) The expression "works" shall include slipways, capstans, and other works facilitating the landing, launching, or beaching of vessels in any harbour, and the expression "harbour" shall include any haven, cove, or other landing place;

(5) An Order may constitute one harbour authority for two or more harbours, and may abolish any existing harbour authority, with the consent of that authority, and may transfer to the harbour authority constituted by the Order the property, rights, powers, and liabilities of any existing harbour authority, but not so as to prejudice the rights of any creditor of the existing harbour authority without the consent of that creditor, and may for that purpose repeal any Order or enactment constituting or regulating the authority so abolished;

(6) The purposes for which byelaws may be made under the Harbours, Docks, and Piers Clauses Act, 1847 [10 & 11 Vict., c. 27], as incorporated by an Order, shall extend to the prevention of obstruction or injury to the harbour under the control of the harbour authority, so, however, that no estate, interest, or right of a profitable or beneficial nature, in, over, or affecting the harbour shall, except with the consent of the person entitled thereto, be taken away or injuriously affected by any such byelaw without compensation being made or provided for the same by the authority making the byelaw, and such compensation shall, in case of difference, be determined by an arbitrator appointed, in default of agreement between the parties, by the Board of Trade;

(7) No Order shall be made except with the consent in writing of the Board of Trade;

(8) Any consent, appointment or other thing given, made or done by the Board of Trade may be signified under the hand of the President or a secretary or assistant secretary of the Board.

3. Powers of local authorities to contribute.]

(1) The council of a county or borough or urban or rural district or parish may, with the consent of and subject to regulations made by the Local Government Board, contribute or undertake to contribute to the expenses of a harbour authority constituted under this Act, and the expenses so incurred by a council shall be defrayed—

(a) in the case of a county council, out of the county fund as general county expenses, or, if the consent of the Local Government Board so provides, as expenses for special county purposes charged on such part of the county as may be specified in such consent;

(b) in the case of a borough or district council as if the expenses were expenses under the Public Health Acts; and

(c) in the case of a parish council under and according to the Local Government Act, 1894 [56 & 57 Vict., c. 73].

(2) A council may borrow for the purpose of this Act in the case of a county council as for the purposes of the Local Government Act, 1888 [51 & 52 Vict., c. 41], in the case of a borough or district council as for the purpose of the Public Health Acts, and in the case of a parish council as for the purposes of the Local Government Act, 1894: Provided that

(a) money borrowed under this Act shall not be reckoned as part of the total debt of a county council for the purpose of section sixty-nine of the Local Government Act, 1888, or as part of the debt of the council of a borough or district or parish for the purposes of the limitation on borrowing under subsections (2) and (3) of section two hundred and thirty-four of the Public Health Act, 1875 [38 & 39 Vict., c. 55], or under section twelve of the Local Government Act, 1894; and

(b) the power of borrowing so conferred shall, during the continuance of the war and for a period of one year thereafter, not be exercised without the consent of the Treasury.

(3) A committee constituted under the Sea Fisheries Regulation Act, 1888, may contribute or undertake to contribute to the expenses of a harbour authority constituted under this Act for a harbour situate wholly or partly in the district of the committee.

4. *Short title, extent, and duration.* [1] This Act may be cited as the Fishery Harbours Act, 1915, and the General Pier and Harbour Act, 1861, the General Pier and Harbour Act, 1861, Amendment Act, and this Act may be cited together as the General Pier and Harbour Acts, 1861 to 1915.

(2) This Act shall not extend to Scotland or Ireland.

(3) The power of making orders under this Act shall not be exercised after the expiration of two years from the passing of this Act except for the purpose of amending an existing Order made under this Act, but nothing in this subsection shall prejudice or affect any powers or provisions contained in any Order made before the expiration of that period.

CHAPTER 49.

[HOUSING (ROSYTH DOCKYARD) ACT, 1915.]

An Act to facilitate the early provision of dwellings, &c., for, or for the convenience of, persons employed by or on behalf of the Admiralty at Rosyth Dockyard.

[19th May, 1915.]

CHAPTER 50.

[RE-ELECTION OF MINISTERS ACT, 1915.]

An Act to make temporary provision for rendering unnecessary the Re-election of Members of the House of Commons on Acceptance of Office.

[4th June, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 632.]

CHAPTER 51.

[MINISTRY OF MUNITIONS ACT, 1915.]

An Act for establishing, in connection with the present War, a Ministry of Munitions of War, and for purposes incidental thereto.

[9th June, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 653.]

CHAPTER 52.

[CUSTOMS (EXPORTATION RESTRICTION) ACT, 1915.]

An Act to amend the Law relating to the Exportation of Articles during the present War.

[24th June, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 632.]

CHAPTER 53.

[CONSOLIDATED FUND (No. 3) ACT, 1915.]

An Act to apply a sum out of the Consolidated Fund to the service of the year ending on the thirty-first day of March, one thousand nine hundred and sixteen.

[24th June, 1915.]

CHAPTER 54.

[MUNITIONS OF WAR ACT, 1915.]

An Act to make provision for furthering the efficient manufacture, transport and supply of Munitions for the present War; and for purposes incidental thereto.

[2nd July, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 632.]

CHAPTER 55.

[WAR LOAN ACT, 1915.]

An Act to make further provision for raising Money for the present War, and for purposes incidental thereto.

[2nd July, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 653.]

CHAPTER 56.

[WAR LOAN (TRUSTEES) ACT, 1915.]

An Act to enable Trustees to borrow money for the purpose of exercising any Option to convert Securities given under the War Loan Act, 1915, to Holders of that Loan, and to indemnify Trustees for any loss in respect of any such borrowing, or any transaction in relation to the Loan, and to authorize the investment of moneys subject to any trust in any Securities created under that Act.

[2nd July, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 654.]

CHAPTER 57.

[PRIZE COURTS ACT, 1915.]

An Act to amend the Enactments relating to Prize Courts.

[2nd July, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 654.]

CHAPTER 58.

[ARMY (AMENDMENT) No. 2 ACT, 1915.]

An Act to amend the Army Act.

[2nd July, 1915.]

Be it enacted, &c.:

1. *Provisions as to separation allowances.* [1] Section one hundred and forty-one of the Army Act (which prohibits the assignment of pay and other allowances) shall extend to allowances to wives and dependants of officers and soldiers; and, accordingly, in that section, immediately before the word "widow," there shall be inserted the word "wife," and for the word "relative" there shall be substituted the word "dependant."

(2) Subsection (9) of section one hundred and fifty-six of the Army Act (which restricts the pledging of identity certificates and life certificates by persons entitled to military pensions, pay and bounty) shall extend to separation or other allowances and relief, and accordingly, in that subsection, after the word "bounty,"

wherever it occurs, there shall be inserted the words "allowance or relief."

2. *Amendment of s. 108A (3) (d) of Army Act.* In paragraph (d) of subsection (3) of section 108A of the Army Act (which relates to billeting in cases of emergency), for the words "and paragraph (2) of Part II. of the Second Schedule to the Army Act" there shall be substituted "so much of paragraph (2) of Part I. of the Second Schedule to this Act as limits the period during which meals are required to be furnished, and paragraph (2) of Part II. of that schedule."

3. *Amendment of s. 121 (2) of Army Act.* In paragraph (2) of section one hundred and twenty-one of the Army Act (which relates to fraudulent claims for carriages, animals, etc.), after the words "have his horse billeted" there shall be inserted the words "or personates or represents himself to be a person authorised to act in the purchase or hire, for the purposes of His Majesty's military service, of any carriage, animal, vessel, aircraft, food, forage, or stores."

4. *Amendment of s. 145 (2) of Army Act.* Subsection (2) of section one hundred and forty-five of the Army Act (which relates to the liability of a soldier to maintain his wife and children) shall be repealed from the words "the Army Council or officer shall order" to the end of the subsection; and in lieu thereof there shall be substituted the following provision:—
"the Army Council or officer shall order to be deducted from the daily pay of the soldier, and to be appropriated in liquidation of the sum adjudged to be paid by such order or decree, or towards the maintenance of the wife or children of the soldier, as the case may be, in such manner as the Army Council or officer think or thinks fit, a portion of such daily pay not exceeding—

where the soldier is a warrant officer (Class I.) not holding an honorary commission—in respect of a wife or children, one shilling and sixpence, and in respect of a bastard child, one shilling;

where the soldier is a warrant officer (Class II.) not holding an honorary commission, or a non-commissioned officer who is not below the rank of sergeant—in respect of a wife or children, one shilling, and in respect of a bastard child, sevenpence;

In the case of any other soldier—in respect of a wife or children, sixpence, and in respect of a bastard child, fourpence."

5. *Explanation of s. 154 of Army Act.* For removing any doubt it is hereby declared that section one hundred and fifty-four of the Army Act (which relates to the apprehension of deserters) applies to absentees without leave, and accordingly in that section, after the word "deserters," there shall be inserted the words "and absentees without leave," and after the word "deserter," wherever it occurs, there shall be inserted the words "or absentee without leave."

6. *Amendment of s. 156 (1) of Army Act.* In subsection (1) of section one hundred and fifty-six of the Army Act (which relates to the acquisition from soldiers of military equipment, stores, and other things), for the words "a soldier" and "any soldier," wherever they occur in that subsection, there shall be substituted the words "an officer or soldier."

7. *Amendment of s. 190 (27) of Army Act.* In paragraph (27) of section one hundred and ninety of the Army Act, for the words "The expression 'governor' as respects the presidency of Bengal means the Governor-General of India in Council and as respects the presidencies of Madras and Bombay means the Governor in Council of the presidency" there shall be substituted the words "The expression 'governor' as respects any presidency in India means the Governor in Council of the presidency."

8. *Amendments consequential on 4 & 5 Geo. 5, c. 26.* The amendments mentioned in the Schedule to this Act, being amendments consequential on the Army (Supply of Food, Forage, and Stores) Act, 1914, shall be made in the Army Act.

9. *Short title.* This Act may be cited as the Army (Amendment) No. 2 Act, 1915.

SCHEDULE.

[Section 8.]

AMENDMENTS CONSEQUENTIAL ON THE ARMY
(SUPPLY OF FOOD, FORAGE, AND STORES)
ACT, 1914.

Provision of Army Act to be Amended.	Amendment to be made.
Section 31 (1) (7) & (8)	For the words "vessels or aircraft" wherever they occur there shall be substituted the words "vessels, aircraft, food, forage, or stores." For the words "vessel or aircraft" wherever they occur there shall be substituted the words "vessel, aircraft, food, forage, or stores."
Section 115 (3)	For the words "carriages, animals, vessels, and aircraft" there shall be substituted the words "carriages, animals, vessels, aircraft, food, forage and stores." For the words "and shall apply to vessels and aircraft as if the expression carriages included vessels and aircraft" there shall be substituted the words "and shall apply to vessels, aircraft, food, forage, and stores in like manner in all respects as they apply to carriages."
Section 115 (4)	For the words "carriages, animals, vessels, and aircraft" there shall be substituted the word "articles." For the words "carriage, animal, vessel, or aircraft" wherever they occur there shall be substituted the word "article." For the words "through which it travelled" there shall be substituted the words "through which it travelled or was carried."
Section 115 (6)	For the words "vessels and aircraft" where they first occur there shall be substituted the words "vessels, aircraft, food, forage and stores." For the words "to demand carriages, animals, vessels, and aircraft" there shall be substituted the words "to make such demand."
Section 115 (7)	For the words "vessels and aircraft" there shall be substituted the words "vessels, aircraft, food, forage, and stores."
Section 115 (8)	For the words "carriages, animals, vessels, or aircraft" there shall be substituted the word "articles." For the words "a carriage, animal, vessel, or aircraft" there shall be substituted the words "any such article." For the words "the said carriage, animal, vessel, or aircraft" there shall be substituted the words "the article requisitioned."

Provision of Army Act to be Amended.	Amendment to be made.
Section 115 (9)	For the words "vessels and aircraft" there shall be substituted the words "vessels, aircraft, food, forage, and stores."
Section 116 (1)	For the words "vessels or aircraft" there shall be substituted the words "vessels, aircraft, food, forage, or stores."
Section 116 (2) and (3)	For the words "carriage, animal, vessel, or aircraft" wherever they occur there shall be substituted the words "such article."
Section 117	For the words "a carriage, animal, vessel, or aircraft," "any carriage, animal, vessel, or aircraft," and "carriages, animals, vessels, or aircraft," there shall respectively be substituted the words "any article."
Section 119 (1) (b)	For the words "owner or driver" there shall be substituted the words "owner of any article or the person in charge."
Section 121 (2)	For the words "vessel or aircraft" there shall be substituted the words "vessel, aircraft, food, forage, or stores."

CHAPTER 59.

[MILK AND DAIRIES ACTS POSTPONEMENT ACT,
1915.]

An Act to postpone the operation of the Milk and Dairies Act, 1914, and the Milk and Dairies (Scotland) Act, 1914.

[2nd July, 1915.]

Be it enacted, &c.:

1. *Postponement of Milk and Dairies Acts.* The Milk and Dairies Act, 1914 [4 & 5 Geo. 5, c. 49], and the Milk and Dairies (Scotland) Act, 1914 [4 & 5 Geo. 5, c. 46], shall, notwithstanding anything in those Acts, not come into operation until such date, not being later than the expiration of one year after the termination of the present war, as the Local Government Board and the Local Government Board for Scotland may respectively by order appoint.

2. *Short title.* This Act may be cited as the Milk and Dairies Acts Postponement Act, 1915.

CHAPTER 60.

[NATIONAL REGISTRATION ACT, 1915.]

An Act for the Compilation of a National Register.

[15th July, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 670.]

CHAPTER 61.

[GOVERNMENT OF INDIA ACTS, 1915.]

An Act to consolidate enactments relating to the Government of India.

[29th July, 1915.]

CHAPTER 62.

[FINANCE ACT, 1915.]

An Act to grant certain duties of Customs and Inland Revenue, including Excise, to alter other duties, and to amend the Law relating to Customs and Inland Revenue, including Excise, and the National Debt,

and to make further provision in connection with Finance.

[29th July, 1915.]

Be it enacted, &c.:

PART I.

CUSTOMS AND EXCISE.

1. *Duty on tea.*] The duty of Customs payable on tea until the first day of July, nineteen hundred and fifteen, under the Finance Act, 1914 (Session 2) [5 Geo. 5, c. 7], shall continue to be charged, levied, and paid until the first day of July, nineteen hundred and sixteen, on the importation thereof into Great Britain or Ireland (that is to say):—

Tea, the pound eightpence.

2. *Duties on immature spirits.*] In addition to the duties of Customs payable on spirits imported into Great Britain or Ireland there shall, as from the eighteenth day of May, nineteen hundred and fifteen, be charged, levied and paid the duties specified in Part I. of the Schedule to this Act; and in addition to the Excise duty payable on spirits there shall, as from the same date, be charged, levied and paid the duties specified in Part II. of the Schedule to this Act: Provided that—

(a) The additional duties under this section shall not be charged on mixtures, compounds, or preparations which on importation are charged with duty in respect of the spirit contained in them or used in their preparation or manufacture if the mixture, compound, or preparation is one which is recognised by the Commissioners of Customs and Excise as being used for medical purposes; and

(b) If any person proves to the satisfaction of the Commissioners of Customs and Excise that any spirits to which the restrictions contained in the Immature Spirits (Restriction) Act, 1915 [5 & 6 Geo. 5, c. 46], do not apply, have been delivered to him and used solely in the manufacture or preparation of any article recognised by the Commissioners of Customs and Excise as an article used for medical purposes or have been used for scientific purposes, that person shall be entitled to obtain from the Commissioners repayment of the amount of duty (if any) paid under this section in respect of the spirit used; and

(c) The additional duties under this section shall, in the case of blended spirits, be subject to the modifications specified in Part III. of the Schedule to this Act.

3. *Repayment of proportional part of duty on a liquor licence in cases where business is discontinued.*] Where the holder of any of the manufacturers', wholesale dealers', or retailers' licences specified in the First Schedule to the Finance (1909-10) Act, 1910 [10 Edw. 7, c. 81], satisfies the Commissioners of Customs and Excise that the business for the purpose of which or in connection with which the licence has been granted has been permanently discontinued, he shall be entitled to surrender the licence and to obtain from the Commissioners repayment, or so far as the duty has not been paid remission, of such part of the duty for the year as bears to the full amount of that duty the same proportion as the period of the licence unexpired at the date of the surrender bears to a whole year:

Provided that a person shall not be entitled to obtain any repayment or remission of duty under this section where the business has been discontinued owing to the disqualification either of the premises or the licence holder by reason of the conviction of the licence holder for some offence.

4. *Allowance in respect of duty on spoilt beer.*] (1) If it is proved to the satisfaction of the Commissioners of Customs and Excise that any beer which has been removed from the entered premises of a brewer for consumption has accidentally become spoilt or otherwise unfit for use and, in the case of beer delivered to another person, has been returned to the brewer as so

spoilt or unfit for use, the Commissioners shall, subject to such regulations as they may prescribe, remit or repay the duty charged or paid in respect of the beer.

(2) If any person contravenes or fails to comply with any of the regulations made by the Commissioners under this section, he shall in respect of each offence be liable to an excise penalty of fifty pounds.

(3) If any person for the purpose of obtaining any remission or repayment of duty under this section knowingly makes any false statement or false representation he shall be liable on summary conviction to imprisonment with or without hard labour for a term not exceeding six months.

5. *Amendment of s. 45 of Finance (1909-10) Act, 1910.*] Where the duty payable under the Finance (1909-10) Act, 1910, in respect of the licence for any such premises as are mentioned in section forty-five of that Act would, but for the provisions of this section, be the full duty and not the reduced duty payable under that section, and the person applying for the licence shews to the satisfaction of the Commissioners of Customs and Excise that the receipts from the sale of intoxicating liquor in the preceding year were made to exceed, in the case of a restaurant two-fifths, and in the case of any other premises one-third of the total receipts in that year from the business of all descriptions carried on by the licence holder in the premises by reason either that—

(1) the receipts from the sale of intoxicating liquor were increased on account of the addition to the duty on beer imposed by the Finance Act, 1914 (Session 2); or

(2) The receipts other than the receipts from the sale of intoxicating liquor were diminished through circumstances connected with the present war;

or for both of those reasons, then, for the purpose of ascertaining whether the reduced duty is payable in respect of the licence, the said section forty-five shall have effect as if three-fifths were substituted for two-fifths and one-half were substituted for one-third.

This section shall have effect as respects any licence taken out on or after the twenty-ninth day of May nineteen hundred and fifteen.

6. *Restriction of hours (extension of relief).*] Section nine of the Finance Act, 1914 (Session 2), (which provides for a reduction of licence duty where hours of sale are curtailed) shall, in addition to the cases therein specified, apply to cases in which the holder of any retailer's on-licence proves to the satisfaction of the Commissioners of Customs and Excise that, during the continuance of and in connection with the present war, the sale or consumption of intoxicating liquor on his premises has been suspended during any normal hours of sale either—

(a) voluntarily at the request of any naval, military, or civil authority; or

(b) under any order made under section sixty-three of the Licensing (Consolidation) Act, 1910 [10 Edw. 7 & 1 Geo. 5, c. 24], section twelve of the Temperance (Scotland) Act, 1913 [5 & 4 Geo. 5, c. 35], section twenty-one of the Licensing (Ireland) Act, 1835 [3 & 4 Will. 4, c. 68], or section thirty of the Refreshment Houses (Ireland) Act, 1860 [23 & 24 Vict. c. 107].

7. *Exemption of motor ambulances in respect of duty on motor spirit.*] Any person using motor spirit for the purpose of supplying motive power to any motor ambulance when used as such shall be entitled to an allowance or repayment of the duty paid in respect of the motor spirit in the same manner as a person using motor spirit for purposes other than the supply of motive power for motor cars.

8. *Power to warehouse certain spirits of wine on drawback for home consumption or for delivery duty free for use in arts, &c.*] (1) Notwithstanding anything in section ninety-five of the Spirits Act, 1880 [43 & 44 Vict. c. 24], a

rectifier may, subject to the provisions of that section—

(a) warehouse for home consumption spirits of wine of a strength of seventy-four degrees over proof or upwards rectified by him from spirits on which duty has been paid; or

(b) warehouse for delivery to a person entitled to receive spirits duty free under section eight of the Finance Act, 1902 [2 Edw. 7, c. 7], spirits of wine of a strength of fifty degrees over proof or upwards so rectified.

(2) The Commissioners of Customs and Excise may make regulations with respect to the conditions under which spirits of wine of a strength of seventy-four degrees over proof or upwards may be warehoused by a distiller or a rectifier, and may by any such regulations modify as respects any such spirits any of the provisions of the Spirits Act, 1880, or any other enactment relating to the warehousing of spirits.

(3) If any person contravenes or fails to comply with any regulations made under this section he shall be liable to an excise penalty of one hundred pounds.

(4) Notwithstanding anything in section twenty-one of the Revenue Act, 1889 [52 & 53 Vict. c. 42], the allowance payable under section three of the Customs and Inland Revenue Act, 1885 [48 & 49 Vict. c. 51], in respect of spirits of the nature of spirits of wine shall, in the case of any such spirits as are mentioned in subsection (1) of this section, be payable only on the exportation of the spirits or on the spirits being used in the warehouse, and not on the deposit of the spirits in the warehouse.

9. *Allowance on British-grown tobacco exported or manufactured in bond.*] (1) Where any unmanufactured tobacco grown in the United Kingdom is exported, or where any tobacco grown in the United Kingdom which has been deposited in any warehouse approved by the Commissioners of Customs and Excise under section two of the Manufactured Tobacco Act, 1863 [26 & 27 Vict. c. 7], is shewn to the satisfaction of the Commissioners to have been therein manufactured into cavendish or negrohead, there shall, subject to the provisions of this section, be paid in respect of every pound of that tobacco an allowance of twopence.

(2) The allowance shall be paid in the case of tobacco exported to the exporter, and in the case of tobacco manufactured in a warehouse to the manufacturer.

(3) No allowance shall be paid under this section—

(a) In respect of any tobacco which, in the opinion of the said Commissioners, is not in a marketable condition or has not been fully cured; or

(b) Except upon production to the person by whom the allowance is to be paid of a certificate from the proper officer of Customs and Excise that the tobacco has been exported or manufactured into cavendish or negrohead as aforesaid.

(4) No allowance shall be paid under this section after the expiration of two years from the exportation or deposit of the tobacco, as the case may be.

PART II.

10. *Income tax for 1915-16.*] (1) Income tax for the year beginning on the sixth day of April, nineteen hundred and fifteen, shall be charged at the rate of two shillings and sixpence, and super-tax shall be charged, levied, and paid for that year at double the rates mentioned in section three of the Finance Act, 1914 [4 & 5 Geo. 5, c. 10].

(2) All such enactments relating to income tax, including super-tax, as were in force with respect to the duties of income tax granted for the year beginning on the sixth day of April, nineteen hundred and fourteen, shall have full force and effect with respect to any duties of income tax hereby granted:

Provided that—

- (a) Sections four and six of the Finance Act, 1914, which confer relief with respect to earned income and small incomes respectively, shall have effect as though the rates mentioned in those sections were doubled; and
- (b) Subsection (1) of section twelve of the Finance Act, 1914 (Session 2) [5 Geo. 5, c. 7], shall not have effect with respect to any duties of income tax hereby granted.

(3) The annual value of any property which has been adopted for the purpose either of income tax under Schedules A. and B. in the Income Tax Act, 1863 [16 & 17 Vict. c. 54], or of inhabited house duty, for the year ending on the fifth day of April, nineteen hundred and fifteen, shall be taken as the annual value of such property for the same purpose for the next subsequent year; provided that this subsection—

- (a) so far as respects the duty on inhabited houses in Scotland, shall be construed with the substitution of the twenty-fourth day of May for the fifth day of April; and
- (b) shall not apply to the metropolis as defined by the Valuation (Metropolis) Act, 1869 [32 & 33 Vict. c. 67].

11. *Separate assessment of life assurance business.* Where an assurance company carries on life assurance business in conjunction with assurance business of any other class, the life assurance business of the company shall, for the purposes of the Income Tax Acts, be treated as a separate business from any other class of business carried on by the company.

12. *Provision as to calculation of loss where company carries on life assurance business.* In ascertaining for the purposes of section one hundred and one of the Income Tax Act, 1842 [5 & 6 Vict. c. 35], or of section twenty-three of the Customs and Inland Revenue Act, 1890 [53 Vict. c. 8], whether an assurance company has sustained a loss in respect of its life assurance business, any income of the company derived from the investment of its life assurance fund shall be treated as part of the profits of the company acquired in that business.

13. *Accountability of company for income tax deducted from annuities.* The amount of annuities which an assurance company carrying on the business of granting annuities is entitled, for the purposes of subsection (3) of section twenty-four of the Customs and Inland Revenue Act, 1888 [51 Vict. c. 8], to treat as having been paid out of profits or gains brought into charge to income tax shall not exceed the amount of the taxed income of its annuity fund.

14. *Relief from income tax to certain companies in respect of expenses of management.* (1) Where an assurance company carrying on life assurance business or any company whose business consists mainly in the making of investments, and the principal part of whose income is derived therefrom, claims and proves to the satisfaction of the Special Commissioners that for any income tax year it has been charged to income tax by deduction or otherwise, and has not been so charged in respect of its profits in accordance with the rules under the first case in section one hundred of the Income Tax Act, 1842, the company shall be entitled to repayment of so much of the tax paid by it as is equal to the amount of the tax on any sums disbursed as expenses of management (including commissions) for that year:

Provided that—

- (a) relief shall not be given under this section so as to make the income tax paid by the company less than the tax which would have been paid if the profits of the company had been charged in accordance with the said rules; and
- (b) the amount of any fines, fees, or profits arising from reversions in the case of an assurance company, and in the case of any other company the amount of any income or profits derived from sources

not charged to income tax, shall be deducted from the amount treated as expenses of management for the year; and

(c) in calculating profits arising from reversions, the company may set off against those profits any loss arising from reversions for any previous year during which this section was in operation.

(2) Notice of any claim to the Special Commissioners under this section together with the particulars thereof shall be given in writing to the surveyor of taxes for the district within twelve months after the expiration of the income tax year in respect of which the claim is made, and where the surveyor objects to such claim the Special Commissioners shall hear and determine the same in like manner as in the case of an appeal to them against an assessment under Schedule D., and section fifty-nine of the Taxes Management Act, 1880 [43 & 44 Vict. c. 19] (which relates to the statement of a case on a point of law), and any rules made for the purposes of that section shall apply in the case of any such appeal.

(3) A company shall not be entitled to any relief under this section in respect of any expenses as to which relief may be claimed or allowed under section thirty-five of the Finance Act, 1894 [57 & 58 Vict. c. 30], or section sixty-nine of the Finance (1909-10) Act, 1910, as extended by section eight of the Finance Act, 1914, by which enactments relief is conferred in respect of the cost of maintenance, repairs, insurance, or management of land or houses.

15. *Charge of income tax on investments of foreign assurance companies doing business in the United Kingdom.* (1) Where an assurance company not having its head office in the United Kingdom carries on life assurance business through any branch or agency in the United Kingdom, any income of the Company from the investments of its life assurance fund (excluding the annuity fund, if any), wherever received, shall, to the extent provided in this section, be deemed to be profits comprised in Schedule D. of the Income Tax Act, 1863, and shall be charged under the rules of the third case in section one hundred of the Income Tax Act, 1842.

(2) Such portion only of the income from the investments of the life assurance fund shall be charged under this section as bears the same proportion to the total income from those investments as the amount of premiums received in that year from policy holders resident in the United Kingdom and from policy holders resident abroad whose proposals were made to the company at or through its office or agency in the United Kingdom bears to the total amount of the premiums received by the Company:

Provided that in the case of an assurance company having its head office in any British possession the Commissioners of Inland Revenue may, by regulation, substitute some basis other than that prescribed by this section for the purpose of ascertaining the portion of the income from investments to be charged under this section as being income derived from business carried on in the United Kingdom.

(3) The relief conferred by this Act in respect of expenses of management shall, in the case of a company charged to income tax under this section, be calculated by reference to a like proportion of the total expenses of management of the company for the year estimated in accordance with the provisions of this Act.

(4) Every assessment under this section shall be made by the Special Commissioners as though the company under the provisions of the Income Tax Acts had required the proceedings relating to the assessment to be had and taken before those Commissioners.

(5) Where a company has already been charged to income tax, by deduction or otherwise, in respect of its life assurance business, to an amount equal to or exceeding the charge under this section, no further charge shall be made under this section, and where a company has already been so charged, but to a less amount, the charge under this section shall be proportionately reduced.

16. *Amendment of s. 5 of the Finance Act, 1914.* Section five of the Finance Act, 1914

(which provides for the taxation of income in respect of foreign property), shall not apply to income arising from the sources specified in that section of an assurance company so far as that income arises from the investments of the foreign life assurance fund of the company, but a corresponding reduction shall be made in the relief granted under this Act in respect of expenses of management.

17. *Limitation of income tax relief in respect of insurance premiums.* (1) A person shall not be entitled under section fifty-four of the Income Tax Act, 1853 (as amended by any subsequent enactment), to deduct from profits or gains—

- (a) In respect of any premium or other payment payable on a policy for securing a capital sum on death (whether in conjunction with any other benefit or not), more than seven per cent. of the actual capital sum assured; and
- (b) In respect of any premiums or payments to which that section applies payable for securing any other benefits, more than one hundred pounds in all;

and the relief by way of repayment of tax under that section, or by way of deduction for the purposes of super-tax under paragraph (b) of subsection (2) of section sixty-six of the Finance (1909-10) Act, 1910, shall be correspondingly limited.

(2) In calculating the deduction under this section in respect of any premium or other payment payable on a policy for securing a capital sum on death no account shall be taken of any sum payable on the happening of any other contingency or of the value of any premiums agreed to be returned or of any benefit by way of bonus, or otherwise, which is to be or may be received either before or after death, either by the person paying the premium, or by any other person, and which is not the sum actually assured.

18. *Provision as to estimation of total income.* Where an assessment to income tax has become final and conclusive for the purposes of the income tax for any year, the assessment shall also be final and conclusive in estimating total income from all sources for the purposes of super-tax for the following year, or of any exemption, relief, or abatement under the Income Tax Acts, and no allowance or adjustment of liability on the ground of diminution of income or loss shall be taken into account in estimating the total income from all sources for such purposes unless that allowance or adjustment has been previously made in respect of income tax on an application under the special provisions of the Income Tax Acts relating thereto.

19. *Relief from super-tax in the case of military or naval service, &c.* Where it is proved to the satisfaction of the Special Commissioners—

- (a) that any individual, in connection with the present war, is or has been during any year serving as a member of any of the military or naval forces of the Crown, or in any work abroad of the British Red Cross Society, or the St. John Ambulance Association, or any other body with similar objects; and
- (b) that the total income of that individual from all sources for that year is or was less than his total income from all sources for the previous year;

the total income of that individual from all sources for the purposes of super-tax for that year shall be taken to be his total income from all sources for that year, estimated in the same manner as, under section sixty-six of the Finance (1909-10) Act, 1910, his total income for the previous year is required to be estimated, and where the tax has been paid repayment shall be made accordingly.

20. *Continuation of relief under 5 Geo. 5, c. 7, s. 13.* Section thirteen of the Finance Act, 1914 (Session 2), (which gives relief in respect of diminution of income due to war) shall apply to income tax (including super-tax) for the current income tax year, but with the substitution, as respects postponed super-tax, of the first day of January nineteen hundred and seventeen for the

first day of January nineteen hundred and sixteen as the date on which the postponed super-tax is to become payable, and any payment of super-tax for the year beginning the sixth day of April nineteen hundred and fourteen which has been postponed under that section may be further postponed until the first day of January nineteen hundred and seventeen, if the individual from whom the payment is due proves, to the satisfaction of the Special Commissioners, that his actual income from all sources for the current income tax year is or will be less than two-thirds of the income on which he was liable to be charged to super-tax for the year beginning on the sixth day of April nineteen hundred and fourteen.

21. Extension of relief from income tax in favour of savings banks.] (1) The exemption from income tax chargeable under Schedules C. and D., conferred by section thirty-six of the Finance Act, 1894, on penny savings banks and other banks for savings, shall extend to all income of the savings bank which is applied in the payment or credit of interest to any depositor, and that section shall have effect accordingly:

Provided that, where the interest paid or credited to any depositor in the year for which exemption is claimed exceeds the sum of five pounds, the bank and any branch thereof shall make a return to the surveyor of taxes for the district in which the bank or branch is situate of the name and place of residence of every depositor to whom any such sum has been paid or credited and of the amount thereof, and unless such returns are duly made the bank shall not be entitled to any relief under this section. Any such return shall be made on or before the first day of May in the year following that in respect of which exemption is claimed.

(2) The provisions of this Act conferring relief from income tax in respect of expenses of management shall apply to savings banks and other banks for savings as they apply to companies whose businesses consist mainly of investments.

22. Repayment in certain cases of tax on interest paid to banks.] Where interest payable in the United Kingdom on an advance from a bank carrying on a bona fide banking business in the United Kingdom is paid to the bank, without deduction of income tax, out of profits and gains brought into charge to income tax, the person by whom the interest is paid shall be entitled, on proof of the facts to the satisfaction of the Special Commissioners, to repayment of an amount equal to income tax on the amount of the interest.

23. Remuneration of persons entrusted with payment of dividends.] The amount which, in accordance with the provisions of section twenty-six of the Customs and Inland Revenue Act, 1885 (which relates to the payment of income tax on foreign and colonial dividends), a person entrusted with the payment of dividends is entitled to receive as remuneration shall, instead of being the allowance specified in that section, be an allowance calculated by reference to the amount of the dividends paid from which income tax has been deducted, and to be fixed by the Treasury at a rate not being less than thirteen shillings and sixpence for every thousand pounds of that amount.

PART III.

NATIONAL DEBT AND LOANS.

24. Suspension of new sinking fund.] In the financial year ending the thirty-first day of March nineteen hundred and sixteen, that portion of the permanent annual charge for the national debt which is not required for the annual charges directed by the National Debt and Local Loans Act, 1887 [50 & 51 Vict. c. 16], or any other Act, to be paid out of that charge shall not be paid.

25. Application of 38 & 39 Vict. c. 45, s. 3.] (1) Sections three and five of the Sinking Fund Act, 1875 (which relate to the application of the old and new sinking funds), shall apply and shall be deemed to have applied, to any securities issued under the War Loan Act, 1914 [4 & 5

Geo. 5, c. 60], or any Act extending or amending that Act or any other enactment authorising money to be borrowed for the purposes of the present war in like manner as they apply to annuities charged on the Consolidated Fund.

(2) Any securities issued under the War Loan Act, 1914, or any Act extending or amending that Act, or any other enactment authorising money to be borrowed for the purposes of the present war, shall be and shall be deemed always to have been included amongst the securities transfer of which may be accepted by the National Debt Commissioners as consideration for annuities granted by them under the Government Annuities Acts, 1829 to 1882, and amongst the securities in which any money received by the Commissioners as consideration for such annuities may be invested; and the provisions of those Acts relating to such consideration as aforesaid shall apply and shall be deemed always to have applied to such securities in like manner in all respects as they apply to Two and a half Consolidated Stock.

26. Extension of s. 14 of the Finance Act, 1914 (Session 2).] Subsection (2) of section fourteen of the Finance Act, 1914 (Session 2), (which relates to subscriptions to loans by members of the House of Commons) shall apply, and shall be deemed to have applied, to subscriptions or contributions to any Treasury bills issued during the continuance of the present war or a period of twelve months thereafter.

PART IV.

MISCELLANEOUS.

27. Amendment as to priority of charge for currency notes.] The amount of any currency notes issued under the Currency and Bank Notes Act, 1914 [4 & 5 Geo. 5, c. 14], to any person shall be a floating charge on the assets of that person in priority to all other floating charges, but not in priority to charges which are not floating charges; and, accordingly, section two of that Act shall have effect and be deemed always to have had effect as if the word "floating" were inserted immediately before the word "charges."

PART V.

GENERAL.

28. Definitions, construction, and short title.] (1) In this Act, unless the context otherwise requires,—

The expression "assurance company" means any persons or bodies of persons, whether corporate or unincorporate, to which the Assurance Companies Act, 1909 [9 Edw. 7, c. 49], applies;

The expression "life assurance business" includes the business of granting annuities;

The expression "annuity fund" means, where an annuity fund is not kept separately from the life assurance fund of an assurance company, such part of the life assurance fund as represents the liability of the company under its annuity contracts as stated in its periodical returns to the Board of Trade under the Assurance Companies Act, 1909;

The expression "foreign life assurance fund" means any fund representing the amount of the liability of an assurance company in respect of its life assurance business with policy-holders and annuitants residing out of the United Kingdom whose proposals were made to, or whose annuity contracts were granted by, the company at or through a branch or agency outside the United Kingdom, and, where such a fund is not kept separately from the life assurance fund of the company, means such part of the life assurance fund as represents the liability of the company under such policies and annuity contracts; such liability being estimated in the same manner as it is estimated for the purposes of the periodical returns of the company to the Board of Trade under the Assurance Companies Act, 1909;

The expression "Special Commissioners" means the commissioners for the special purposes of the Income Tax Acts;

The expression "Income Tax Acts" means the Income Tax Acts, 1842 to 1853, and any other enactments relating to income tax, and, if the context so requires, includes Part II. of this Act.

(2) Part I. of this Act, so far as it relates to duties of Customs, shall be construed together with the Customs (Consolidation) Act, 1876 [39 & 40 Vict. c. 36], and any enactments amending that Act, and so far as it relates to duties of Excise shall be construed together with the Acts which relate to the duties of Excise and the management of those duties.

Part II. of this Act shall be construed together with the Income Tax Acts.

(3) This Act may be cited as the Finance Act, 1915.

SCHEDULE.

[Section 2.]

ADDITIONAL DUTIES IN RESPECT OF IMMATURE SPIRITS.

PART I.

CUSTOMS.

	Where the Spirits have been warehoused for a period of Two Years and less than Three Years.	Where the Spirits have not been warehoused, or have been warehoused for a period of less than Two Years
	s. d.	s. d.
For every gallon computed at proof of spirits of any description except perfumed spirits	1 0	1 6
For every gallon of perfumed spirits	1 7	2 5
For every gallon of liqueurs, cordials, mixtures, and other preparations entered in such a manner as to indicate that the strength is not to be tested	1 4	2 0

PART II.

EXCISE.

	Where the Spirits have been warehoused for a period of Two Years and less than Three Years.	Where the Spirits have not been warehoused, or have been warehoused for a period of less than Two Years.
	s. d.	s. d.
For every gallon of spirits computed at proof	1 0	1 6

And so on in proportion for any less quantity.

PART III.

Where spirit which is permitted to be delivered for home consumption on payment of additional duty has, before the seventeenth day of June nineteen hundred and fifteen, been blended with spirit which is permitted to be so delivered without payment of such duty, no additional duty shall be charged on any part of the blended spirit.

Where spirit which is permitted to be delivered for home consumption on the payment of additional duty at the higher of the two rates speci-

fed in Parts I. and II. of this Schedule has before that date been blended with spirit which is permitted to be so delivered on payment of additional duty at the lower of those two rates, the additional duty shall be charged on the whole of the blended spirit at the lower of those two rates.

CHAPTER 63.

[EXPIRING LAWS CONTINUANCE ACT, 1915.]

An Act to continue various Expiring Laws.
[29th July, 1915.]

Whereas the Acts mentioned in the schedule to this Act are, in so far as they are in force and are temporary in their duration, limited to expire,

as respects the Acts mentioned in Part I. of that schedule, on the thirty-first day of December nineteen hundred and fifteen, and, as respects the Acts mentioned in Part II. of that schedule, on the thirty-first day of March nineteen hundred and sixteen:

And whereas it is expedient to provide for the continuance as in this Act mentioned of those Acts, and of the enactments amending or affecting the same:

Be it therefore enacted, &c.:

1. *Continuance of Acts in schedule.* (1) The Acts mentioned in Part I. of the schedule to this Act shall, to the extent specified in column three of that schedule, be continued until the thirty-first day of December nineteen hundred and six-

teen, and shall then expire, unless further continued.

(2) The Acts mentioned in Part II. of the schedule to this Act shall, to the extent specified in column three of that schedule, be continued until the thirty-first day of March nineteen hundred and seventeen, and shall then expire, unless further continued.

(3) Any unrepealed enactments amending or affecting the enactments continued by this Act shall, in so far as they are temporary in their duration, be continued in like manner, whether they are mentioned in the schedule to this Act or not.

2. *Short title.* This Act may be cited as the Expiring Laws Continuance Act, 1915.

SCHEDULE.

[Section 1.]

PART I.

1. Session and Chapter.	2. Short Title.	3. How far continued.	4. Amending Acts.	1 Session and Chapter.	2 Short Title.	3. How far continued.	4 Amending Acts.
(1) 3 & 4 Vict., c. 89.	The Poor Rate Exemption Act, 1840.	The whole Act.	—	(13) 32 & 33 Vict., c. 56.	The Endowed Schools Act, 1869.	As to the powers of making schemes.	36 & 37 Vict., c. 87. 37 & 38 Vict., c. 87. 52 & 53 Vict., c. 40. 8 Edw. 7, c. 39.
(2) 3 & 4 Vict., c. 91.	The Textile Manufacturers (Ireland) Act, 1840.	The whole Act.	5 & 6 Vict., c. 68. 30 & 31 Vict., c. 60	(14) 33 & 34 Vict., c. 112.	The Glebe Loan (Ireland) Act, 1870.	The whole Act.	34 & 35 Vict., c. 100. 49 Vict., c. 6.
(3) 4 & 5 Vict., c. 30.	The Ordnance Survey Act, 1841.	The whole Act	33 Vict., c. 13. 47 & 48 Vict., c. 43. 52 & 53 Vict., c. 30.	(15) 34 & 35 Vict., c. 87.	The Sunday Observation Prosecution Act, 1871.	The whole Act.	—
(4) 10 & 11 Vict., c. 98.	The Ecclesiastical Jurisdiction Act, 1847.	As to the provisions continued by 21 & 22 Vict., c. 50.	—	(16) 35 & 36 Vict., c. 33.	The Ballot Act, 1872.	The whole Act.	45 & 46 Vict., c. 50. (Municipal Elections).
(5) 14 & 15 Vict., c. 104.	The Episcopal and Capitular Estates Act, 1851.	The whole Act.	17 & 18 Vict., c. 116 22 & 23 Vict., c. 46. 23 & 24 Vict., c. 124 31 & 32 Vict., c. 114, s. 10.	(17) 38 & 39 Vict., c. 84.	The Parliamentary Elections (Returning Officers) Act, 1875.	The whole Act.	46 & 47 Vict., c. 51, s. 32. 48 & 49 Vict., c. 62. 49 & 50 Vict., c. 57.
(6) 17 & 18 Vict., c. 102.	The Corrupt Practices Prevention Act, 1854.	So much as is continued by the Corrupt and Illegal Practices Prevention Act, 1883.	26 & 27 Vict., c. 29, s. 6. 31 & 32 Vict., c. 125 46 & 47 Vict., c. 51.	(18) 39 & 40 Vict., c. 21.	The Jurors Qualifications (Ireland) Act, 1876.	The whole Act.	57 & 58 Vict., c. 49. 61 & 62 Vict., c. 37, s. 69.
(7) 26 & 27 Vict., c. 105.	The Promissory Notes Act, 1863	The whole Act.	45 & 46 Vict., c. 61.	(19) 41 & 42 Vict., c. 41.	The Parliamentary Elections Returning Officers Expenses (Scotland) Act, 1878.	The whole Act.	48 & 49 Vict., c. 62. 49 & 50 Vict., c. 58. 54 & 55 Vict., c. 49.
(8) 27 & 28 Vict., c. 20.	The Promissory Notes (Ireland) Act, 1864.	The whole Act.	—	(20) 43 Vict., c. 18.	The Parliamentary Elections and Corrupt Practices Act, 1880.	The whole Act.	46 & 47 Vict., c. 51.
(9) 28 & 29 Vict., c. 46	The Militia (Ballot Suspension) Act, 1865.	The whole Act.	45 & 46 Vict., c. 40.	(21) 43 & 44 Vict., c. 42.	The Employers' Liability Act, 1880.	The whole Act.	6 Edw. 7., c. 58, s. 14.
(10) 28 & 29 Vict., c. 83.	The Locomotives Act, 1865.	The whole Act.	41 & 42 Vict., c. 58. 41 & 42 Vict., c. 77 (Part II.). 59 & 60 Vict., c. 36. 61 & 62 Vict., c. 29. 1 & 2 Geo. 5, c. 45.	(22) 46 & 47 Vict., c. 51.	The Corrupt and Illegal Practices Prevention Act, 1883.	The whole Act.	58 & 59 Vict., c. 40.
(11) 31 & 32 Vict., c. 125.	The Parliamentary Elections Act, 1868.	So much as is continued by the Corrupt and Illegal Practices Prevention Act, 1883.	42 & 43 Vict., c. 75. 46 & 47 Vict., c. 51.	(23) 47 & 48 Vict., c. 70.	The Municipal Elections (Corrupt and Illegal Practices) Act, 1884.	The whole Act.	56 & 57 Vict., c. 73. 1 & 3 Geo. 5, c. 7.
(12) 32 & 33 Vict., c. 21.	The Corrupt Practices Commission Expenses Act, 1869.	The whole Act.	34 & 35 Vict., c. 61.	(24) 51 & 52 Vict., c. 55.	The Sand Grouse Protection Act, 1888.	The whole Act.	—

1. Session and Chapter.	2. Short Title.	3. How far continued.	4. Amending Acts.
(25) 52 & 53 Vict., c. 40.	The Welsh Inter- mediate Educa- tion Act, 1889.	As to the pow- ers of the joint educa- tion commit- tee and the suspension of the powers of the Charity Com mis- sioners.	53 & 54 Vict., c. 60
(26) 58 & 59 Vict., c. 21.	The Seal Fisher- ies (North Paci- fic) Act, 1895.	The whole Act.	—
(27) 59 Vict., c. 1.	The Local Government (Elections) Act, 1896.	The whole Act.	—
(28) 61 & 62 Vict., c. 49.	The Vaccination Act, 1898.	The whole Act.	7 Edw. 7, c. 31.
(29) 2 Edw. 7, c. 18.	The Licensing (Ireland) Act, 1902.	The whole Act.	—
(30) 3 Edw. 7, c. 36.	The Motor Car Act, 1903.	The whole Act.	—
(31) 4 Edw. 7, c. 24.	The Wireless Telegraphy Act, 1904.	The whole Act.	—
(32) 5 Edw. 7, c. 18.	The Unemployed Workmen Act, 1905.	The whole Act.	—
(33) 7 Edw. 7, c. 55.	The London Cab and Stage Car- riage Act, 1907.	As to the aboli- tion of the privileged cab system, s. 2.	—

1. Session and Chapter.	2. Short Title.	3. How far continued.	4. Amending Acts.
(34) 1 & 2 Geo. 5, c. 55.	The National In- surance Act, 1911.	Section forty- two; and so far as it re- lates to the powers of the Insurance Commission- ers to make orders affect- ing section forty-two, section sev- enty-eight.	3 & 4 Geo. 5, c. 37.
(35) 2 & 3 Geo. 5, c. 2.	The Coal Mines (Minimum Wage) Act, 1912.	The whole Act.	—

PART. II.

1. Session and Chapter.	2. Short Title.	3. How far continued.	4. Amending Acts.
(36) 59 & 60 Vict., c. 16.	The Agricultural Rates Act, 1896.	The whole Act.	—
(37) 59 & 60 Vict., c. 37.	The Agricultural Rates, Conges- ted Districts, and Burgh Land Tax Re- lief (Scotland) Act, 1896.	The whole Act.	—

CHAPTER 64.

[NOTIFICATION OF BIRTHS (EXTENSION) ACT,
1915.]

An Act to extend the Notification of Births Act, 1907, to Areas in which it has not been adopted, and to make further provision in connection therewith for the Care of Mothers and Young Children.

[29th July, 1915.]

Be it enacted, &c. :

1. *Extension of Notification of Births Act, 1907.* (1) The Notification of Births Act, 1907 (7 Edw. 7, c. 40) (in this Act referred to as the principal Act), shall, on and after the first day of September, nineteen hundred and fifteen, extend to and take effect in every area in which it is not already in force, and in the case of an area for which it could be adopted either by the council of an urban or rural district, or by the county council, shall take effect as if it had been adopted by the council of the district.

(2) Where by virtue of this Act the principal Act comes into force in any county district in which it is not already in force, the medical officer of health shall send duplicates of any notices of birth received by him under that Act to the county medical officer of health as soon as may be after they are received.

(3) Where by virtue of this Act the principal Act comes into force in any area in which it is not already in force, it shall be the duty of the local authority to bring the provisions of the principal Act to the attention of all medical practitioners and midwives practising in the area.

2. *Arrangements for attending to mothers and young children.* (1) Any local authority within the meaning of the principal Act (whether a sanitary authority or not) may, for the purpose

of the care of expectant mothers, nursing mothers, and young children, exercise any powers which a sanitary authority has under the Public Health Acts, 1875 to 1907, or the Public Health (London) Act, 1891 [54 & 55 Vict. c. 76], as the case requires.

(2) Any expenses incurred in the exercise of these powers shall be defrayed in the same manner as expenses of the local authority are defrayed under the principal Act.

Any such powers may be exercised in such manner as the authority direct by a committee or committees which shall include women and may comprise, if it is thought fit, persons who are not members of the authority. Any such committee may be empowered by the authority by which it is appointed to incur expenses up to a limit for the time being fixed by the authority, and, if so empowered, shall report any expenditure by them to the authority in such manner and at such times as the authority may direct. A committee appointed for the purposes of this section shall hold office for such period not exceeding three years as the authority by which it is appointed may determine.

3. *Application to Scotland and Ireland.* (1) In the application of this Act to Scotland—

(a) subsection (2) of section one shall not apply: Provided that the Local Government Board for Scotland may, if they think fit, by order, authorise any two or more local authorities to act together for the purposes of the principal Act and this Act, and may prescribe the mode of such joint action and of defraying the costs thereof;

(b) the following subsection shall be substituted for subsection (1) of section two:—

(1) Any local authority within the

meaning of the principal Act may make such arrangements as they think fit, and as may be sanctioned by the Local Government Board for Scotland, for attending to the health of expectant mothers and nursing mothers, and of children under five years of age within the meaning of section seven of the Education (Scotland) Act, 1906 [8 Edw. 7, c. 63]:

(2) In the application of this Act to Ireland—

(a) subsection (2) of section one shall not apply;

(b) the following subsection shall be substituted for subsection (1) of section two:—

(1) Any local authority within the meaning of the principal Act may make such arrangements as they think fit, and as may be sanctioned by the Local Government Board for Ireland, for attending to the health of expectant mothers and nursing mothers, and of children under five years of age;

(c) the provisions for the extension of the principal Act shall not apply as respects any rural district; and

(d) the expression "medical officer of health" means, for the purposes both of this Act and the principal Act, as respects any district for which there is a medical superintendent officer of health that officer, and elsewhere the medical officer of health of the dispensary district.

4. *Short title and repeal.* (1) This Act may be cited as the Notification of Births (Extension) Act, 1915, and the principal Act and this Act may be cited together as the Notification of Births Acts, 1907 and 1915.

(2) The enactments mentioned in the Schedule

to this Act are hereby repealed (except as respects rural districts in Ireland) to the extent specified in the third column of that Schedule.

SCHEDULE.
[Section 4.]

Session and Chapter.	Title.	Extent of Repeal.
7 Edw. 7, c. 40.	The Notification of Births Act, 1907.	In section one, the words "in which this Act is adopted by that authority in accordance with the provisions of this Act," in subsection (1) the words "in an area in which this Act is adopted," and in subsection (4) the words "whose sub-district or any part thereof is situate within any area in which this Act is adopted." Subsections (1) (2) and (3) of section two, and in subsection (4) the words "who may adopt the Act either for their whole county or for any county district therein." Section three. The Schedule.

CHAPTER 65.

[MAINTENANCE OF LIVE STOCK ACT, 1915.]

An Act to make provision for securing the Maintenance of a sufficient Stock of Cattle, Sheep, and Swine, and for purposes connected therewith.

[29th July, 1915.]

Be it enacted, &c.:

1. *Power to make orders for the maintenance of stock.* (1) The Board of Agriculture and Fisheries may, for the purpose of maintaining a sufficient stock of animals to which this Act applies, by order applicable to England and Wales or any part thereof—

- prohibit or restrict the slaughter of animals except male lambs;
- prohibit or restrict the sale or exposure for sale of meat of immature animals which has not been imported;
- authorise any local authority specified in the order to execute and enforce within their district all or any of the provisions of the order, and provide for the manner in which the expenses incurred by the authority are to be defrayed;
- authorise any officer of the Board or of a local authority to enter any slaughter-house or other premises on which animals are slaughtered for human food and examine any animals or carcasses therein;
- prohibit or restrict the movement of animals out of any area in which the slaughter of such animals is prohibited or restricted;
- authorise or require the marking of animals for the purposes of an order under this Act;

(g) revoke, extend, or vary any order so made.

(2) The animals to which this Act applies are cattle, sheep, and swine.

2. *Offences.* If any person acts in contravention of or fails to comply with any of the provisions of an order made under this Act, or with a view to evade the operation of any such order marks, or alters or obliterates a mark on any animal, or obstructs or impedes any officer in the execution of his powers or duties under any such order, he shall, on conviction under the Summary Jurisdiction Acts, be liable to a fine not exceeding twenty pounds, or if the offence is an offence committed with respect to more than four animals to a fine not exceeding five pounds for each animal.

3. *Application to Scotland and Ireland.* (1) This Act shall apply to Scotland with the substitution of references to Scotland and to the Board of Agriculture for Scotland for references to England and Wales and to the Board of Agriculture and Fisheries.

(2) This Act shall apply to Ireland with the substitution of references to Ireland and to the Department of Agriculture and Technical Instruction for Ireland for the references to England and Wales and to the Board of Agriculture and Fisheries.

4. *Short title, repeal, and duration.* (1) This Act may be cited as the Maintenance of Live Stock Act, 1915.

(2) The Slaughter of Animals Act, 1914 [4 & 5 Geo. 5, c. 75], is hereby repealed, but nothing in this repeal shall affect any order made under that Act, and any such order shall continue in force as if made under this Act.

(3) This Act shall remain in force during the continuance of the present war and for a period of twelve months thereafter and no longer, but the expiration of this Act and of any order then in force shall not prejudice or affect the institution or prosecution of any proceedings for any offence committed before such expiration.

CHAPTER 66.

[MILK AND DAIRIES (CONSOLIDATION) ACT, 1915.]

An Act to consolidate certain Enactments relating to Milk and Dairies.

[29th July, 1915.]

Be it enacted, &c.:

1. *Milk and Dairies Orders.* (1) The Local Government Board may make such general or special orders (hereinafter referred to as Milk and Dairies Orders) as they think fit for all or any of the following purposes:—

- for the registration with local authorities of all persons carrying on the trade of dairymen;
- for the registration with local authorities of all dairies;
- for the inspection of cattle in dairies;
- for the inspection by persons authorised by the local authority for the locality in which the dairy is situate of dairies and persons in or about dairies who have access to the milk or to the churns or other milk receptacles;
- for prescribing and regulating the lighting, ventilation, cleansing, drainage, and water supply of dairies in the occupation of persons following the trade of dairymen;
- for securing the cleanliness of milk stores, milk shops, and milk vessels used for containing milk for sale by such persons;
- for prescribing the precautions to be taken for protecting milk against infection or contamination;
- for preventing danger to health from the sale for human consumption, or from the use in the manufacture of products for human consumption, of infected, contaminated, or dirty milk;
- for regulating, the cooling, conveyance,

and distribution of milk intended for sale for human consumption, or for use in the manufacture of products for human consumption;

- as to the labelling, marking, or identification and the sealing or closing of churns, vessels, and other receptacles of milk for sale for human consumption or used for the conveyance of such milk;
- for prohibiting the addition of colouring matter; and for prohibiting or regulating the addition of skimmed or separated milk or water or any other substance to milk intended for sale for human consumption, or the abstraction therefrom of butter-fat or any other constituent; and for prohibiting or regulating the sale for human consumption of milk to which such an addition or from which such abstraction has been made, or which has been otherwise artificially treated;
- for authorising the use, in connection with the sale of milk, of the designation "certified milk," for prescribing the conditions subject to which milk may be sold under such designation, and for prohibiting the use of such designation in connection with the sale of milk in respect of which the prescribed conditions are not complied with;
- for authorising a local authority to make regulations for the purposes aforesaid, or any of them, subject to such conditions (if any) as the Local Government Board prescribe.

(2) A Milk and Dairies Order with respect to the inspection of cattle in a dairy may authorise the person making the inspection to require any cow to be milked in his presence and to take samples of the milk, and to require that the milk from any particular test shall be kept separate and to take separate samples thereof.

(3) If any person is guilty of a contravention of, or non-compliance with, the provisions of any Milk and Dairies Order, he shall be guilty of an offence against this Act.

(4) Milk and Dairies Orders shall be made by the Local Government Board with the concurrence of the Board of Agriculture and Fisheries, and shall have effect as if enacted in this Act.

(5) All Milk and Dairies Orders shall be laid before each House of Parliament as soon as may be after they are made; and if an Address is presented to His Majesty by either House of Parliament within the next subsequent forty days on which that House has sat after the order is laid before it praying that the order may be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder, or to the making of a new order. If the session of Parliament ends before such forty days as aforesaid have expired, the order shall be laid before each House of Parliament at the commencement of the next session as if it had not previously been laid.

(6) The Rules Publication Act, 1893 [56 & 57 Vict. c. 66], shall apply to any such order as if it was a statutory rule within the meaning of section one of that Act.

2. *Powers of enforcing Milk and Dairies Orders.* A local authority and their officers for the purpose of enforcing a Milk and Dairies Order and any regulations made thereunder shall have the same right to be admitted to any premises as a local authority within the meaning of the Public Health Act, 1875 [38 & 39 Vict. c. 55], and their officers have under section one hundred and two of that Act for the purpose of examining as to the existence of any nuisance thereon, and if such admission is refused, the like proceedings may be taken, with the like incidents and consequences, as to orders, payment, penalty, costs, expenses and otherwise, as in the case of a refusal to admit to premises for any of the purposes of the said section one hundred and two.

Provided that nothing in this section shall authorise any person, except with the permission of the local authority under the Diseases of Animals Acts, 1894 to 1914, to enter any cowshed

or other place in which an animal affected with any disease to which those Acts apply is kept, and which is situated in a place declared under those Acts to be infected with such disease.

3. *Power to stop supply of milk likely to cause tuberculosis.* (1) If the medical officer of health of a county or county borough is of opinion that tuberculosis is caused, or is likely to be caused, by the consumption of the milk supplied from any dairy in which cows are kept within such county or county borough, the provisions of the First Schedule to this Act shall have effect with respect to the reports to be made and the steps to be taken with a view to stopping the supply of milk from the dairy, and, with a view to stopping such supply, orders may be made in accordance with that schedule, subject to such right of appeal and the payment of compensation in such cases as are provided therein.

(2) Where an order stopping the supply of milk is made under the said schedule a dairyman shall not be liable for an action for breach of contract if the breach is due to such order.

(3) If any dairyman, whilst any order made in accordance with the said schedule prohibiting the supply or use of milk is in force, supplies or uses any milk in contravention of this order he shall be guilty of an offence against this Act.

(4) The Local Government Board may by order direct that the council of any non-county borough within the county, which is a local authority for the purposes of the Diseases of Animals Acts, 1894 to 1914, shall exercise and perform within the borough the powers and duties of the county council under this and the next succeeding section, and where such an order has been made with respect to any non-county borough this and the next succeeding section shall apply as if the borough were a county borough.

4. *Obligation to inspect dairies in certain cases.* (1) If the medical officer of health of any local authority has reason to suspect that tuberculosis is caused, or is likely to be caused, by the consumption of any milk which is being sold or exposed or kept for sale within the area of the local authority, he shall endeavour to ascertain the source or sources of supply, and on ascertaining the facts shall forthwith give notice of them to the medical officer of health of the county or county borough in which the cows from which the milk is obtained are kept, whether the dairy where they are kept is within or without the area of the local authority, unless the local authority are themselves the council of that county or county borough.

(2) On the receipt of such notice it shall be the duty of the medical officer of health of the county or county borough to cause the cattle in the dairy to be inspected, and to make such other investigations as may be necessary.

(3) Sufficient notice of the time of the inspection shall be given to the local authority whose medical officer of health gave the notice, and to the dairyman to allow that officer or a veterinary inspector or other veterinary surgeon appointed by the authority, and, if desired, another veterinary surgeon appointed by the dairyman being present at the inspection if either party so desire.

(4) The council of the county or county borough on whose medical officer of health the notice is served shall send to the medical officer of health of the local authority who gave the notice copies of any reports which may have been made by the medical officer of health making the inspection, and of any veterinary or bacteriological or other reports which may have been furnished to him, and shall give him information as to whether any action has been taken upon those reports and as to the nature of that action.

5. *Prohibition of sale of tuberculous milk.* If a person—

- (a) Sells, or offers or exposes for sale, or suffers to be sold or offered or exposed for sale, for human consumption or for use in the manufacture of products for human consumption; or
- (b) Uses or suffers to be used in the manufacture of products for human consumption;

the milk of any cow which has given tuberculous milk, or is suffering from emaciation due to tuberculosis, or from tuberculosis of the udder, or from acute inflammation of the udder, or from any of the diseases specified in the Second Schedule to this Act, he shall be guilty of an offence against this Act, if it is proved that he had previously received notice from an officer of a local authority, or that he otherwise knew, or by the exercise of ordinary care could have ascertained, that the cow had given tuberculous milk, or was suffering from any such disease.

6. *Provisions as to selling milk in a public place.* Every person who, himself or by his servant, in any highway or place of public resort sells milk from a vehicle or from a can or other receptacle shall have conspicuously inscribed on the vehicle or receptacle his name and address, and in default shall be liable on summary conviction to a fine not exceeding two pounds.

7. *Provisions as to condensed, separated, or skimmed milk.* Every tin or other receptacle containing condensed, separated, or skimmed milk must bear a label, clearly visible to the purchaser, on which the words "Machine-skimmed Milk," or "Skimmed Milk," as the case may require, are printed in large and legible type, and if any person sells or exposes or offers for sale condensed, separated or skimmed milk in contravention of this section he shall be liable on summary conviction to a fine not exceeding ten pounds.

8. *Power to take samples of milk.* (1) It shall be lawful for an inspector of the Local Government Board, or the medical officer of health of a local authority, or any person provided with and, if required, exhibiting an authority in writing from such an inspector or from the local authority or medical officer of health, to take for examination samples of milk at any time before it is delivered to the consumer:

Provided that the powers of a medical officer of health and of a person authorised by him or by the local authority under this section shall, except so far as the Local Government Board may otherwise direct, be exercisable only within the area of the local authority.

(2) The result of an analysis or bacteriological or other examination of a sample of milk taken under this Act shall not be admissible as evidence in proceedings under this Act, or in proceedings under the Sale of Food and Drugs Acts, 1875 to 1907, unless the provisions of the last-mentioned Acts which relate to the division of samples into parts are complied with, but if those provisions have been complied with, the result of the analysis shall be available for proceedings under the said Acts (as if it had been procured in accordance with those Acts) as well as for proceedings under this Act:

Provided that no proceedings shall be taken against any person unless at the time the sample was taken the milk was in his custody or control or was contained in a churn or other receptacle which had been sealed or closed in accordance with a Milk and Dairies Order.

(3) The medical officer of health or any other officer authorised for the purpose by a local authority within the area of which milk from any dairy situate outside that area is being sold or exposed or kept for sale, may by notice in writing require the medical officer of health or other authorised officer of any other local authority, being an authority for the purposes of the Sale of Food and Drugs Acts, 1875 to 1907, to take samples of the milk at that dairy or in the course of transit from that dairy to the area of the first-mentioned local authority.

(4) Upon receipt of such notice it shall, subject to the provisions of subsection (1) of this section, be the duty of the medical officer of health or other authorised officer of the other authority as soon as practicable to take samples and to forward, for analysis or bacteriological examination, to the officer who gave the notice a part of any sample so taken, and in taking a sample the officer shall, if so required by the notice, comply with the provisions of the Sale of Food and Drugs

Acts, 1875 to 1907, which relate to the division of samples into parts.

The authority requiring the samples to be taken shall be liable to defray any reasonable expenses incurred, the amount whereof shall in default of agreement be settled by the Local Government Board.

For the purpose of the Sale of Food and Drugs Acts, 1875 to 1907, the sample shall be deemed to have been taken within the area of the officer who gave the notice, and proceedings under those Acts may be taken either before a court having jurisdiction within the district for which that officer acts or before a court having jurisdiction in the place where the sample was actually taken.

(5) In any proceedings under the Sale of Food and Drugs Acts, 1875 to 1907, or this Act, the production of a certificate of the officer who took the sample under this section that the provisions of this section, as to the manner in which samples are to be dealt with, were complied with shall be sufficient evidence of compliance, unless the defendant requires that officer to be called as a witness.

(6) In the exercise at any railway station or upon any railway premises of the powers conferred upon him by this section, such inspector, medical officer of health, or other person so authorised as aforesaid shall conform to such reasonable requirements of the railway company owning or using such station or premises as are necessary to prevent the working of the traffic thereat being obstructed or interfered with.

9. *Amendment of Sale of Food and Drugs Acts.* (1) The provisions of the Sale of Food and Drugs Acts, 1875 to 1907, in reference to the taking of samples of milk, and any proceedings in connexion therewith, shall be amended in accordance with the provisions contained in the Third Schedule to this Act.

(2) So much of any contract, made after the thirteenth day of August, nineteen hundred and fourteen, whether made before or after the passing of this Act, as requires a purveyor of milk on a sample of his milk being taken under the Sale of Food and Drugs Acts, 1875 to 1907, to send to the person from whom he procured the milk any part of such sample or to give such person notice that a sample has been so taken, shall be null and void.

10. *Appointment of veterinary inspectors.* (1) A local authority may, and when required by the Local Government Board shall, appoint or combine with another local authority in appointing one or more veterinary inspectors or employ for the purposes of this Act and the Milk and Dairies Orders any veterinary inspector appointed under the Diseases of Animals Act, 1894 [57 & 58 Vict. c. 57], and any local authority may, and when required by the Local Government Board shall, provide or arrange for the provision of such facilities for bacteriological or other examinations of milk, as may be approved by the Board.

(2) Any order requiring a combination of local authorities for the purposes of this section may provide for all matters incidental to such combination, and in particular how the expenses incurred are to be apportioned.

11. *Regulations as to imported milk.* The Local Government Board shall make regulations under the Public Health (Regulations as to Food) Act, 1907 [7 Edw. 7, c. 32], for the prevention of danger arising to public health from the importation of milk and milk products intended for sale for human consumption or for use in the manufacture of products for human consumption.

12. *Establishment of milk depôts.* (1) The sanitary authority of any district may, with the approval of the Local Government Board, establish and thereafter maintain depôts for the sale at not less than cost price of milk specially prepared for consumption by infants under two years of age, and purchase and prepare milk and provide such laboratories, plant, and other things, and exercise and perform such other powers and duties, as may be necessary for the purposes of this section.

(2) The Local Government Board may attack

such conditions to their approval as they may deem necessary.

13. Enforcement of duties of local authorities.] (1) If a local authority fail to fulfil any of their duties under this Act, or under any Milk and Dairies Order, the Local Government Board may after holding a local inquiry make such order as they think necessary or proper for the purpose of compelling the authority to fulfil their duties, and any such order may be enforced by mandamus.

(2) Where the authority in default is a district council, the Local Government Board may determine that all or any of the powers of the council under this Act or the Milk and Dairies Orders be transferred to the county council, and those powers shall be transferred accordingly, and section sixty-three of the Local Government Act, 1894 [56 & 57 Vict. c. 73], shall apply as if the powers had been transferred under that Act.

14. Penalty for obstruction.] If any person obstructs any inspector or other officer of the Local Government Board, or any medical officer of health, or any veterinary inspector or surgeon, or other officer or person employed by a local authority, in the execution of his powers under this Act or any Milk and Dairies Order, or fails to give any such officer all reasonable assistance in his power, or to furnish him with any information he may reasonably require, he shall be guilty of an offence against this Act.

15. Supplemental provisions.] (1) The Local Government Board may by order apply for the purposes of this Act the provisions of any public general Act relating to the holding of local inquiries by the Local Government Board, and the expenses of such inquiries, and the powers of the persons holding any such inquiry, and the manner in which notices may be served.

(2) A local authority may delegate to a committee any of their powers or duties (other than the power of raising rates) under the provisions of this Act or of any Milk and Dairies Order, and in such case anything required or authorised by those provisions to be done to or by the local authority may be done to or by the committee to which such powers and duties have been so delegated.

(3) For the purpose of the exercise and performance of their powers and duties by sanitary authorities under this Act and the Milk and Dairies Orders the purposes of this Act and those Orders shall be deemed to be included amongst the purposes of the Public Health Act, 1875, or the Public Health (London) Act, 1891 [54 & 55 Vict. c. 76], as the case may require.

(4) Any inspection of cattle made in pursuance of this Act or any Milk and Dairies Order shall be carried out by a veterinary inspector or other properly qualified veterinary surgeon.

16. Compensation to existing officers or servants.] If in consequence of the passing of the Milk and Dairies Act, 1914 [4 & 5 Geo. 5, c. 49], or this Act, or of anything done in pursuance or in consequence thereof any officer or servant of any local authority who held office at the passing of this Act suffers any direct pecuniary loss by abolition of office, or by diminution or loss of fees or salary, he shall be entitled to have compensation paid to him for such pecuniary loss by the local authority, and such compensation shall be determined in accordance with and subject to the conditions prescribed by section one hundred and twenty of the Local Government Act, 1888 [51 & 52 Vict. c. 41], and that section with the necessary adaptations shall apply accordingly.

17. Expenses of local authorities.] The expenses of local authorities under this Act and the Milk and Dairies Orders shall be defrayed—

(a) in the case of a county council, out of the county fund, as expenses for general county purposes, or, if an order of the Local Government Board so directs as respects any such expenses as expenses for special county purposes charged on such part of the county as may be provided by the order;

(b) in the case of the common council, out of the general rate;

(c) in the case of the council of a metro-

politan borough, as part of the expenses incurred by the council in the execution of the Public Health (London) Act, 1891;

(d) in the case of the council of a municipal borough or urban or rural district, as part of their general expenses incurred in the execution of the Public Health Acts.

18. Provisions as to offences.] (1) If any person commits an offence against this Act he shall be liable on summary conviction to a fine not exceeding in the case of a first offence five pounds and in the case of a second or subsequent offence fifty pounds, and if the offence is a continuing offence to a further fine not exceeding forty shillings for each day during which the offence continues.

(2) Proceedings against a dairyman for failure to comply with an order under the First Schedule to this Act, requiring the dairyman not to supply milk from a dairy, may be taken before a court of summary jurisdiction, either in the place where the offence was committed or in the place where the dairy is situated, and shall be taken only by the authority by which the order was made.

(3) Where the occupier of a dairy is charged with an offence against this Act, he shall be entitled upon information duly laid by him to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and, if, after the commission of the offence has been proved, the occupier of the dairy proves to the satisfaction of the court—

(a) that he has used due diligence to enforce the execution of this Act and the Milk and Dairies Orders; and

(b) that the said other person had committed the offence in question without his knowledge, consent or connivance;

that other person shall be summarily convicted of the offence, and the occupier shall be exempt from any fine, and the person so convicted shall, in the discretion of the court, be also liable to pay any costs incidental to the proceedings.

(4) When it is made to appear to the satisfaction of the authority by or on whose behalf proceedings are about to be taken—

(a) that the actual occupier of the dairy has used all due diligence to enforce the execution of this Act and the Milk and Dairies Orders; and

(b) by what person the offence has been committed; and

(c) that it has been committed without the knowledge, consent, or connivance of the occupier of the dairy and in contravention of his orders;

proceedings shall be taken against the person who is believed to be the actual offender without first proceeding against the occupier of the dairy.

(5) The duty of taking proceedings for enforcing the provisions of section five of this Act shall rest on the county council or county borough council, without prejudice however to the power of a sanitary authority in a county to take such proceedings, and the duty of taking proceedings for enforcing the provisions of any Milk and Dairies Order shall rest on the local authority prescribed in the order, and the clerk of the local authority, or other officer whom the local authority may appoint, shall have power, if so authorised by the local authority, to institute and carry on such proceedings:

Provided that in cases where the Local Government Board make an Order under section three of this Act directing that the council of a non-county borough shall exercise and perform within the borough the powers and duties of a county council under sections three and four of this Act, the duty of taking proceedings for enforcing the provisions of section five of this Act in such borough shall rest on the council thereof and not on the county council.

(6) Notwithstanding anything contained in any Act to the contrary, all fines imposed in any proceedings instituted by or on behalf of a local

authority in the exercise of their powers and duties under this Act shall be paid to the authority and carried to the credit of the fund out of which the expenses incurred by the authority under this Act are defrayed.

(7) The foregoing provisions of this section shall not apply as respects offences under section six or seven of this Act, but in any prosecution of any such offence the summons shall state particulars of the offence or offences alleged, and also the name of the prosecutor, and shall not be made returnable in less than fourteen days from the day on which it is served, and there must be served therewith a copy of any analyst's certificate obtained on behalf of the prosecutor.

19. Interpretation.] (1) In this Act, unless the context otherwise requires—

The expression "dairy" includes any farm, cowshed, milk store, milk shop, or other place from which milk is supplied on, or for, sale or in which milk is kept or used for purposes of sale or manufacture into butter, cheese, dried milk or condensed milk for sale, and, in the case of a purveyor of milk who does not occupy any premises for the sale of milk, includes the place where he keeps the vessels used by him for the sale of milk, but does not include a shop from which milk is not supplied otherwise than in the properly closed and unopened receptacles in which it was delivered to the shop, or a shop or other place in which milk is sold for consumption on the premises only;

The expression "milk" includes cream, skimmed milk, and separated milk;

The expression "dairyman" includes any occupier of a dairy, any cowkeeper, or any purveyor of milk;

The expression "purveyor of milk" includes a seller of milk, whether wholesale or by retail;

The expression "medical officer of health" includes any duly qualified medical practitioner authorised by the council to act on behalf of the medical officer of health;

The expression "veterinary inspector" means an inspector being a member of the Royal College of Veterinary Surgeons, or having such other veterinary qualifications as may be approved by the Board of Agriculture and Fisheries;

The expression "sanitary authority" as respects London means the sanitary authority for the purposes of the Public Health (London) Act, 1891, and elsewhere the council of a borough or of an urban or rural district, and the expression "sanitary district" means the district of such authority;

The expression "common council" means the mayor, aldermen, and commons of the City of London in common council assembled.

(2) Where milk is sold or exposed or kept for sale it shall be presumed to be sold or exposed or kept for sale for human consumption or for use in the manufacture of products for human consumption, unless the contrary is proved.

(3) Where milk is kept in any dairy, or in the custody or possession of any dairyman, it shall be presumed to be kept for purposes of sale, or manufacture for sale, unless the contrary is proved.

(4) The expression "local authority" in this Act shall include sanitary authorities and county councils, but with respect to the provisions of any Milk and Dairies Order, the order may prescribe by what local authority or authorities the several provisions thereof are to be enforced and executed, and any such order may provide for the giving of assistance and information by county councils to sanitary authorities and by sanitary authorities to county councils for the purpose of their respective duties under this Act or under any Milk and Dairies Order.

(5) The Scilly Islands shall be deemed to be a county and the council of those Islands the council of a county, and any expenses incurred by that

council under this Act or the Milk and Dairies Orders shall be treated as general expenses of the council.

20. Application to London.] (1) Section fifty-three of the Public Health Acts Amendment Act, 1907 [7 Edw. 7, c. 53] (which confers powers to require dairymen to furnish lists of sources of supply), shall apply to London as if it were herein re-enacted with the substitution of references to sanitary authorities and districts of sanitary authorities for references to local authorities and districts of local authorities, and any penalties imposed by the said section as so applied shall be recoverable summarily.

(2) Any provisions of the Public Health Act, 1875, applied by this Act shall, for the purposes for which they are so applied, extend to London, subject to necessary adaptations.

(3) A Milk and Dairies Order affecting London shall provide for the exercise and performance by sanitary authorities in London of all powers and duties under the order which would have been imposed or conferred on sanitary authorities if this Act had not been passed and the order had been made under section twenty-eight of the Public Health (London) Act, 1891, as amended by sections five and six of the London Government Act, 1899 [62 & 63 Vict. c. 14], except that the order may provide for the exercise and performance by the London County Council of powers and duties relating to the inspection of cattle in dairies.

(4) Nothing in this Act, or in any Milk and Dairies Order, shall affect the powers with respect to the registration of dairymen and purveyors of milk within their own area conferred on sanitary authorities in London by section five of the London County Council (General Powers) Act, 1908 [8 Edw. 7, c. cvii.]

(5) The borrowing of moneys by any metropolitan borough council for the purposes of this Act shall be subject in all respects to the provisions of sections one hundred and eighty-three to one hundred and eighty-nine of the Metropolitan Management Act, 1855 [18 & 19 Vict. c. 120], as amended by any subsequent Act.

(6) Where the authority in default is a metropolitan borough council the provisions of section one hundred and one of the Public Health (London) Act, 1891, shall apply in all respects as if such default had been made under the said Act.

21. Short title, commencement, extent, repeal, and savings.] (1) This Act may be cited as the Milk and Dairies (Consolidation) Act, 1915, and shall come into operation on such date not being later than the expiration of one year after the termination of the present year as the Local Government Board may by order appoint.

(2) This Act shall not extend to Scotland or Ireland.

(3) The enactments specified in the Fourth Schedule to this Act shall, except so far as they relate to Scotland or Ireland, be repealed to the extent mentioned in the third column of that Schedule, and there shall also be repealed, as from the expiration of one year after the commencement of this Act, so much of any local Act as deals with any of the matters dealt with by any of the provisions of this Act:

Provided that nothing in this repeal shall affect any order or regulations made under any enactment mentioned in the said Schedule, but any such order or regulations shall, until altered or revoked, continue in force as if made under this Act.

(4) Nothing in this Act shall prejudice or affect the enactments relating to milk and dairies mentioned in the Fifth Schedule to this Act or any other enactments relating to milk and dairies, except so far as such enactments are expressly repealed, amended, or extended by this Act.

SCHEDULES. FIRST SCHEDULE.

[Sections 3, 18.]

PROCEDURE FOR STOPPING SUPPLY OF MILK UNDER SECTION THREE.

(1) The medical officer of health of the county or county borough in which the cows from which the milk is obtained are kept shall report the matter to the council of such county or county borough (hereinafter referred to as the responsible authority).

(2) His report shall be accompanied by the veterinary or bacteriological reports which have been furnished to him.

(3) On receipt of the report or a copy of the report from the medical officer of health, the responsible authority may serve on the dairyman notice to appear before them, or furnish an explanation in writing, within such time not less than forty-eight hours from the time of the service of the notice on him as may be specified in the notice, to show cause why such an order as is hereinafter mentioned should not be made.

(4) The notice shall be accompanied by a copy of the reports made in respect of the dairy.

(5) The responsible authority if, in their opinion, the dairyman has failed to show cause why an order should not be made, may make an order prohibiting him, either absolutely or unless such conditions as may be prescribed in the order are complied with, from supplying for human consumption, or using or supplying for use in the manufacture of products for human consumption, any milk from the dairy or from any particular cow or cows therein until the order has been withdrawn in accordance with the provisions of this Schedule.

(6) The order shall specify the grounds on which it is made.

(7) On the making of such an order, a copy of the order shall forthwith be served on the dairyman, and notice of the facts shall also be served on the Local Government Board and the Board of Agriculture and Fisheries.

(8) Where no order is made, the responsible authority shall allow the dairyman any reasonable expenses incurred by him in showing cause why the order should not be made.

(9) An order prohibiting the supply or use of milk made under this Schedule shall forthwith be withdrawn, and notice of withdrawal served on the dairyman as soon as may be after the responsible authority or their medical officer of health is satisfied that the milk supplied from the dairy is not likely to cause disease.

(10) The medical officer of health shall have power to withdraw an order if so authorized by the responsible authority.

(11) If a dairyman is aggrieved by the making or continuance of an order prohibiting the supply or use of milk, he may by complaint under the Summary Jurisdiction Acts appeal to a court of summary jurisdiction.

(12) A court of summary jurisdiction on such appeal may confirm, vary, or withdraw the order and may direct to and by whom the costs of the appeal are to be paid.

(13) Pending the determination of the appeal, an order shall remain in force unless previously withdrawn.

(14) If an order prohibiting the supply or use of milk is made against a dairyman he shall unless the order has been made in consequence of his own default or neglect be entitled to recover from the responsible authority full compensation for any damage or loss which he may have sustained by reason of the making of the order. The dairyman shall also be entitled to full compensation for any damage or loss which he may sustain in consequence of the responsible authority unreasonably neglecting or refusing to withdraw an order made against him.

(15) In the case of an appeal under this schedule being allowed, the court to which the appeal is made shall determine and state whether the order, the subject of appeal, was made in

consequence of the default or neglect of the dairyman or the withdrawal has been unreasonably neglected or refused.

(16) Any dispute as to the fact of damage or loss or as to the amount of compensation shall be settled by arbitration in the same manner as provided by the Public Health Act, 1875, and any sum awarded as compensation shall be recoverable as a civil debt.

(17) If the compensation claimed does not exceed twenty pounds it may at the option of either party instead of being settled as hereinbefore provided be settled by, and recoverable before, a court of summary jurisdiction.

SECOND SCHEDULE.

[Section 5.]

DISEASES OF COWS IN ADDITION TO TUBERCULOSIS TO WHICH SECTION FIVE APPLIES.

Acute mastitis.
Actinomycosis of the udder.
Anthrax.
Foot-and-mouth disease.
Suppuration of the udder.

Any other disease affecting cows which by a Milk and Dairies Order is declared to be a disease for the purposes of section five of this Act.

THIRD SCHEDULE.

[Section 9.]

AMENDMENT OF SALE OF FOOD AND DRUGS ACTS.

(1) Where, under the Sale of Food and Drugs Acts, 1875 to 1907, a sample of milk is procured from a purveyor of milk, he shall, on being required to do so by the person by whom or on whose behalf the sample was taken, state the name and address of the seller or consignor from whom he received the milk.

(2) The local authority in whose district the sample was taken may take or cause to be taken one or more samples of milk in course of transit or delivery from such seller or consignor.

Within sixty hours after the sample of milk was procured from the purveyor he may serve on the local authority a notice stating the name and address of the seller from whom he received the milk and the time and place of delivery to the purveyor by the seller or consignor of milk from a corresponding milking and requesting them to take immediate steps to procure, as soon as practicable, a sample of milk in the course of transit or delivery from the seller or consignor to the purveyor, unless a sample has been so taken since the sample was procured from the purveyor, or within twenty-four hours prior to the sample being procured from the purveyor, and where a purveyor has not served such notice as aforesaid, he shall not be entitled to plead a warranty as a defence in any such proceedings:

Provided that the purveyor shall not have any such right to require that such a sample shall be taken in cases where the milk, from which the sample procured from the purveyor was taken, was a mixture of milk obtained by the purveyor from more than one seller or consignor.

If a purveyor has served on the local authority such a notice as aforesaid, and the local authority have not procured a sample of milk from the seller or consignor in accordance with the foregoing provisions, no proceedings under the Sale of Food and Drugs Acts, 1875 to 1907, shall be taken against the purveyor in respect of the sample of milk procured from him.

(3) Any sample of milk so taken in the course of transit or delivery shall be submitted for analysis to the analyst to whom the sample procured from the purveyor is or was submitted.

(4) If proceedings are taken against the purveyor of milk, a copy of the certificate of the result of the analysis of every sample so taken in the course of transit or delivery shall be furnished to the purveyor, and every such certificate shall, subject to the provisions of section twenty-one of the Sale of Food and Drugs Act, 1875, be suffi-

cient evidence of the facts stated therein, and shall be admissible as evidence on any question whether the milk sold by the purveyor was sold in the same state as he purchased it.

(5) The local authority of the district in which the first-mentioned sample was taken may, instead of, or in addition to, taking proceedings against the purveyor of milk, take proceedings against the seller or consignor.

(6) If a sample of milk of cows in any dairy is taken in course of transit or delivery from that dairy, the owner of the cows may, within sixty hours after the sample of milk was procured, serve on the local authority a notice requesting them to take immediate steps to procure as soon as practicable a sample of milk from a corresponding milking of the cows, and the foregoing provisions shall apply accordingly:

Provided that the person taking the sample shall be empowered to take any such steps at the dairy as may be necessary to satisfy him that the sample is a fair sample of the milk of the cows when properly and fully milked.

FOURTH SCHEDULE.

[Section 21 (3).]

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
41 & 42 Vict. c. 74.	The Contagious Diseases (Animals) Act, 1878.	The whole Act so far as unrepealed.
49 & 50 Vict. c. 32.	The Contagious Diseases (Animals) Act, 1886.	The whole Act so far as unrepealed.
62 & 63 Vict. c. 51.	The Sale of Food and Drugs Act, 1890.	Sections nine and eleven.
4 & 5 Geo. 5. c. 49.	The Milk and Dairies Act, 1914.	The whole Act.
5 & 6 Geo. 5. c. 59.	The Milk and Dairies Acts Postponement Act, 1915.	In section one "the Milk and Dairies Act, 1914, and" and "the Local Government Board and" and "respectively."

FIFTH SCHEDULE.

[Section 21 (4).]

ENACTMENTS SAVED.

The provisions of the Public Health Acts and the Public Health (London) Act, 1891, with respect to nuisances and the sale of food so far as the same relate to milk and dairies.

The Sale of Food and Drugs Acts, 1875 to 1907, so far as they relate to the sale of milk.

The Public Health (London) Act, 1891, sections sixty-nine and seventy-one.

The Public Health Acts Amendment Act, 1907, sections fifty-three and fifty-four.

The Infectious Diseases Prevention Act, 1890, section four.

CHAPTER 67.

[ISLE OF MAN (CUSTOMS) ACT, 1915.]

An Act to amend the Law with respect to Customs in the Isle of Man.

[29th July, 1915.]

CHAPTER 68.

[PUBLIC WORKS LOANS ACT, 1915.]

An Act to grant Money for the purpose of certain Local Loans out of the Local Loans Fund, and for other purposes relating to Local Loans.

[29th July, 1915.]

CHAPTER 69.

[COTTON ASSOCIATIONS (EMERGENCY ACTION) ACT, 1915.]

An Act to confirm Action taken by any Cotton Association for dealing with Emergencies due to the present War.

[29th July, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 705.]

CHAPTER 70.

[EXECUTION OF TRUSTS (WAR FACILITIES) AMENDMENT ACT, 1915.]

An Act to amend and extend the provisions of the Execution of Trusts (War Facilities) Act, 1915.

[29th July, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 694.]

CHAPTER 71.

[CUSTOMS (WAR POWERS) (No. 2) ACT, 1915.]

An Act to extend the Customs (War Powers) Act, 1915.

[29th July, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 706.]

CHAPTER 72.

[SPECIAL ACTS (EXTENSION OF TIME) ACT, 1915.]

An Act to give temporary power to Government Departments to extend the time limited for the performance of duties or the exercise of powers under Special Acts.

[29th July, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 706.]

CHAPTER 73.

[NAVAL DISCIPLINE (No. 2) ACT, 1915.]

An Act to amend the Naval Discipline Act.

[29th July, 1915.]

Be it enacted, &c.:

1. *Amendment of s. 56 of the Naval Discipline Act.* (1) In paragraph (a) of subsection (3) of section fifty-six of the Naval Discipline Act, which relates to authorities having power to try offences, for the words "when the tender is absent from the ship, by the officer in command of the tender" there shall be substituted the words "in the case of a single tender absent from the ship, by the officer in command of such tender, and in the case of two or more tenders absent from the ship in company or acting together, by the officer in immediate command of such tenders."

(2) In paragraph (d) of the same subsection after the words "naval barracks" there shall be inserted "be exercised by."

2. *Trial of officers for disciplinary offences in time of war.* The following section shall be inserted after section fifty-seven of the Naval Discipline Act:—

"57A. (1) Where any officer borne on the books of any of His Majesty's ships in commission is in time of war alleged to have been guilty of a disciplinary offence, that is to say, a breach of section seventeen, eighteen, nineteen, twenty-two, twenty-three, twenty-seven, or forty-three of this Act, the officer having power to order a court martial may, if he considers that the offence is of such a character as not to necessitate trial by

court martial, in lieu of ordering a court martial, order a disciplinary court constituted as herein-after mentioned.

(2) A disciplinary court shall be composed of not less than three nor more than five officers, of whom one shall be a commander or of higher rank.

(3) A disciplinary court shall have power to impose any punishment inferior to detention in the scale hereinbefore contained, but no greater punishment.

(4) The Admiralty may from time to time frame general orders for regulating the assembling, constitution and procedure and practice of disciplinary courts under this section, and may by those regulations apply, with the necessary modifications, to disciplinary courts the provisions of sections sixty-two to sixty-four and sections sixty-six to sixty-nine of this Act relating to courts martial, and the regulations shall provide for evidence being taken on oath and empower the court to administer oaths for that purpose."

3. *Amendment of s. 90 of Naval Discipline Act.* Section ninety of the Naval Discipline Act shall extend to vessels in His Majesty's service in time of war other than hired vessels, and accordingly for the words "With respect to hired vessels in His Majesty's service in time of war," there shall be substituted the words "With respect to vessels in His Majesty's service in time of war, whether belonging to His Majesty or not, which are not wholly manned by naval ratings, but," and the word "hired" shall be omitted wherever it occurs in that section.

4. *Liability of seamen, &c., for maintenance of wives and children.* The following section shall be inserted after section ninety-eight of the Naval Discipline Act:—

"98A. (1) A person subject to this Act shall be liable to contribute to the maintenance of his wife and of his children, and also to the maintenance of any bastard child of which he may be proved to be the father, to the same extent as if he were not so subject; but execution in respect of any such liability or of any order or decree in respect of such maintenance shall not issue against his person, pay, arms, ammunition, equipments, instruments, or clothing; nor shall he be liable to be punished for the offence of deserting or neglecting to maintain his wife or family, or any member thereof, or of leaving her or them chargeable to any union, parish, or place.

(2) When any order or decree is made under any Act or at common law for payment by a man who is or subsequently becomes subject to this Act either of the cost of the maintenance of his wife or child, or of any bastard child of whom he is the putative father, or of the cost of any relief given to his wife or child by way of loan, a copy of such order or decree shall be sent to the Admiralty or any officer deputed by them for the purpose, and in the case—

(a) of such order or decree being so sent; or

(b) of it appearing to the satisfaction of the Admiralty or any officer deputed by them for the purpose that a person subject to this Act has deserted or left in destitute circumstances, without reasonable cause, his wife or any of his legitimate children under fourteen years of age,

the Admiralty or officer shall order to be deducted from the daily pay of the person so subject to this Act, and to be appropriated in liquidation of the sum adjudged to be paid by such order or decree, or towards the maintenance of the wife or children of the person, as the case may be, in such manner as the Admiralty or officer may think fit, a portion of such daily pay not exceeding—

where the person is a petty officer or a non-commissioned officer who is not below the rank of sergeant—in respect of a wife or children, one shilling, and in respect of a bastard child, sixpence;

in the case of any other person subject to this Act—in respect of a wife or children, sixpence, and in respect of a bastard child, fourpence:

Provided that no such deductions from pay in liquidation of the sum adjudged to be paid by such order or decree as aforesaid shall be ordered unless the Admiralty, or officer deputed by them, are satisfied that the person against whom the order or decree was made has had a reasonable opportunity of appearing to defend the case before the court by which the order or decree was made, and a certificate, purporting to be a certificate of the commanding officer of the ship on which he was or is serving, or on the books of which he was or is borne, that the person has been prevented by the requirements of the service from attending at a hearing of any such case shall be evidence of the fact unless the contrary is proved.

(3) Where a proceeding under any Act or at common law is instituted against a person subject to this Act for the purpose of enforcing against him any such liability as above in this section mentioned, the process may be served on the commanding officer of the ship on which he is serving, or on the books of which such person is borne, or where, by reason of the ship being at sea or otherwise, it is impracticable to serve the process on such commanding officer, the process may be served by being left with the Admiralty for transmission to such commanding officer, but such service shall not be valid unless there is left therewith in the hands of such commanding officer or Admiralty a sum of money (to be adjudged as costs incurred in obtaining the order or decree, if made against the person on whom the process is issued) sufficient to enable him to attend the hearing of the case and to return to his ship or quarters, and such sum may be expended by the commanding officer for that purpose, and no process whatever under any Act or common law in any proceeding in this section mentioned shall be valid against a person subject to this Act if served after such person is under orders for service on a foreign station.

The production of a certificate of the receipt of the process purporting to be signed by such commanding officer as aforesaid shall be evidence that the process has been duly served unless the contrary is proved.

Where, by an order or decree sent to the Admiralty or officer in accordance with subsection (2) of this section, the person against whom the order or decree is made is adjudged to pay as costs incurred in obtaining the order or decree any sum so left with the process as aforesaid, the Admiralty may cause a sum equal to the sum so left to be paid in liquidation of the sum so adjudged to be paid as costs, and the amount so paid by the Admiralty shall be a public debt from the person against whom the order or decree was made, and, without prejudice to any other method of recovery, may be recovered by deductions from his daily pay, in addition to those mentioned in subsection (2) of this section.

(4) This section shall not apply to persons subject to this Act where such persons are officers."

5. Printing and construction of Naval Discipline Act.] (1) Every enactment and word which is directed by this Act to be substituted for or added to any portion of the Naval Discipline Act shall form part of that Act in the place assigned to it by this Act, and the Naval Discipline Act and all Acts which refer thereto shall, after the commencement of this Act, be construed as if that enactment or word had been originally enacted in the Naval Discipline Act in the place so assigned, and, where it is substituted for another enactment or word, had been so enacted in lieu of that enactment or word, and as if the Naval Discipline Act had been enacted with the omission of any enactment or word which is directed by this Act to be omitted from that Act, and the expression "this Act" in the Naval Discipline Act shall be construed accordingly.

(2) A copy of the Naval Discipline Act with every such enactment and word inserted in the place so assigned, and with the omission of any portion of that Act directed by this Act to be

omitted from that Act, shall be prepared and certified by the Clerk of the Parliaments and deposited with the rolls of Parliament, and His Majesty's printers shall print in accordance with the copy so certified all copies of the Naval Discipline Act which are printed after the commencement of this Act.

6. Short title and commencement.] This Act may be cited as the Naval Discipline (No. 2) Act, 1915.

CHAPTER 74.

[POLICE MAGISTRATES (SUPERANNUATION) ACT, 1915.]

An Act to amend the Law with respect to the Superannuation Allowances payable to the Metropolitan Police Magistrates, the Dublin Divisional Justices and the Stipendiary Magistrate for Chatham and Sheerness.

[29th July, 1915.]

Be it enacted, &c.:

1. Superannuation allowances to police magistrates.] (1) Subject to the provisions of this Act the Treasury, on the recommendation of the Secretary of State, may, on the retirement of a police magistrate to whom this Act applies, grant to him a superannuation allowance not exceeding the following scale, that is to say:—

(a) to a magistrate who has served five years and upwards and under six years, an annual allowance of fifteen-sixtieths of the annual salary of his office;

(b) to a magistrate who has served six years and under seven years, an annual allowance of sixteen-sixtieths of such salary;

(c) in like manner a further additional allowance to the annual allowance of one-sixtieth in respect of each additional year of such service until the completion of a period of service of thirty years, when an annual allowance of forty-sixtieths may be granted, and no addition shall be made in respect of any service beyond thirty years.

(2) A superannuation allowance under this Act shall be computed upon the amount of the salary enjoyed by the magistrate at the time of his retirement, unless he has been in receipt of that amount for less than three years, in which case it shall be computed on the average amount of salary received by him during the three years immediately preceding the date of his retirement.

(3) It shall not be lawful to grant any superannuation allowance, under the provisions of this Act, to any magistrate who is under sixty years of age, except upon a medical certificate to the satisfaction of the Secretary of State that he is incapable, from infirmity of mind or body, to discharge the duties of his office, and that such incapacity is likely to be permanent.

(4) Any sums payable on account of superannuation allowances under this Act shall be charged on and paid out of the Consolidated Fund of the United Kingdom or the growing produce thereof, and shall be paid to a person entitled thereto at such times in every year as the Treasury may determine.

(5) A person to whom a superannuation allowance has been granted under this Act before he has attained the age of sixty years shall, until he has attained that age, be liable to be called upon to fill any public office or situation under the Crown in the United Kingdom for which his previous public services may render him eligible; and if he declines, when called upon to do so, to take upon him such office or situation, or declines or neglects to execute the duties thereof satisfactorily, being in a competent state of health, he shall forfeit his right to the superannuation allowance which has been granted to him.

(6) The decision of the Treasury on any question which arises as to the application of any provision of this Act to any person, or as to the amount of any superannuation allowance under this Act, or as to the reckoning of any service for such an allowance, shall be final.

(7) The police magistrates to whom this Act applies are all persons appointed after the passing of this Act to be metropolitan police magistrates, or divisional justices of the police district of Dublin metropolis, or stipendiary magistrate for Chatham and Sheerness, and any person appointed before the passing of this Act to any such office, if he was appointed on or after the eighteenth day of September nineteen hundred and fourteen and, within one month after the passing of this Act, gives notice in writing to the Treasury that he adopts the provisions of this Act; and nothing in this Act shall affect a superannuation allowance payable to any other police magistrate:

Provided that in the application of this Act to the divisional justices of the police district of Dublin metropolis references to the Lord Lieutenant shall be substituted for references to the Secretary of State, and a reference to moneys provided by Parliament shall be substituted for the reference to the Consolidated Fund of the United Kingdom or the growing produce thereof.

2. Short title.] This Act may be cited as the Police Magistrates (Superannuation) Act, 1915.

CHAPTER 75.

[PRICE OF COAL (LIMITATION) ACT, 1915.]

An Act to provide for the limitation of the Price of Coal.

[29th July, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 683.]

CHAPTER 76.

[ELECTIONS AND REGISTRATION ACT, 1915.]

An Act to postpone Elections of local authorities and other bodies and the preparation of the Parliamentary and Local Government Registers, and for purposes incidental thereto.

[29th July, 1915.]

[Printed, 59 SOLICITORS' JOURNAL, p. 695.]

CHAPTER 77.

[APPROPRIATION ACT, 1915.]

An Act to apply a sum out of the Consolidated Fund to the service of the year ending on the thirty-first day of March one thousand nine hundred and sixteen, and to appropriate the Supplies granted in this Session of Parliament.

[29th July, 1915.]

CHAPTER 78.

[SCOTTISH UNIVERSITIES (EMERGENCY POWERS) ACT, 1915.]

An Act to extend the powers of the Scottish Universities to make Ordinances for purposes connected with the present War.

[29th July, 1915.]

CHAPTER 79.

[TRADING WITH THE ENEMY AMENDMENT ACT, 1915.]

An Act to amend the Trading with the Enemy Act, 1914.

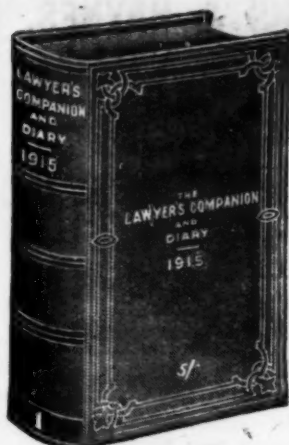
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